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Canada - Dominion - Provincial Relations, Royal
Commission on, 1937

ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

REPORT OF HEARINGS

[Nova Scotia]

Vol. I

FEB 3 - 1938 - Feb. 4, 1938

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HALIFAX, NOVA SCOTIA, FEBRUARY 3, 1938.

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ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

 HALIFAX, NOVA SCOTIA, FEBRUARY 3, 1938

The Royal Commission appointed to re-examine the economic and financial basis of Confederation and the distribution of legislative powers in the light of the economic and social developments of the last seventy years, met at the Province House, Halifax, Nova Scotia, on Thursday, February 3, 1938, at 10.30 a.m.

PRESENT:

HON. CHIEF JUSTICE NEWTON W. ROWELL....CHAIRMAN

DR. JOSEPH SIROIS)	
JOHN W. DAFCE, Esq.)	
DR. ROBERT ALEXANDER MACKAY)	Commissioners
PROFESSOR HENRY FORBES ANGUS)	

Commission Counsel:

Louis S. St. Laurent, Esq. K.C.

James McGregor Stewart, Esq. K.C.

Secretariat:

Alex. Skelton, Esq.	Secretary
Adjutor Savard, Esq.	Secrétaire Français
R. M. Fowler, Esq.	Legal Secretary
Wilfrid Eggleston, Esq.	Assistant to the Secretary

FOR THE GOVERNMENT OF NOVA SCOTIA:

Hon. Angus L. Macdonald, K.C.	Premier
Hon. J. H. MacQuarrie, K.C.	Attorney General

Province House,
Halifax, Nova Scotia,
February 3, 1938.

MORNING SESSION

ADDRESS OF WELCOME.

HON. ANGUS L. MACDONALD, K.C., Premier of the Province of Nova Scotia: Mr. Chief Justice and Gentlemen of the Royal Commission of Dominion-Provincial relations, it is my responsibility and my very great pleasure to welcome you to this province on behalf of the government and the people of Nova Scotia.

As is pointed out in the introductory chapter of this government's submission, Nova Scotia has the oldest civilization and the longest existence as a political unit. The table around which the commission sits is the same table at which there assembled the Council of Nova Scotia under the presidency of Lord Edward Cornwallis in the year 1749, though twenty-nine years earlier the first British Council in North America met at Port Royal, N.S. And within these walls the first responsible assembly in of the British Dominions beyond the seas sat 90 years ago. It is not without significance that in this very chamber in 1938 there was held the first discussion in any British Colonial legislature of the question of Canadian Union, a discussion that followed on a motion made by the Hon. James W. Johnstone, then a member of the Legislative Council of this province. During the intervening years the whole question of Federation or Confederation and its results has been very much in the minds of our people. We recognize, as we think all Canadians recognize, that no matter how admirable the idea of Confederation may have been, and no matter how carefully the British North America Act may have been framed, it would be too much to expect of human statesmanship

that the provisions which were considered suitable in 1867 should in all cases be suitable today. We feel, therefore, that there is need for some revision of the terms of the British North America Act, and for fresh consideration of certain other matters of Dominion-provincial concern, and we are happy to see an investigation into all these questions by a commission so well adapted to the task. We hope that as a result of the facts and arguments presented to the commission, and the recommendations which you shall base thereon, there may follow happier relations between each province and the other, and between the provinces as a whole and the Dominion itself.

In that hope, gentlemen, and in that spirit, we shall present our case; a spirit that recognizes our responsibility to Nova Scotia and to Canada, and that prompts us to base our suggestions upon principles of fairness to ourselves, to all other provinces and to the Dominion as a whole.

THE CHAIRMAN: Mr. Premier, and Members of the Government, on behalf of my colleagues and myself I desire to express our very sincere appreciation of your cordial words of welcome and of the spirit in which you have intimated the brief on behalf of the province of Nova Scotia will be presented. I am sure we all realize the historic spot in which we meet; and the early associations of the table around which we sit, and the hall in which we are met, recall to us the beginnings of government in this country, the development of constitutional and responsible government and now in the final stage where Canada has reached full equity of status with the other members of the British Commonwealth.

One cannot but recall on an occasion like this, and meeting in a council room like this, the great contribution

which this province has made to the public life of Canada. It would be invidious to mention any living men, but to refer to only four, those who have passed on and who have made great contributions to the political and public life of Canada, - Howe, Tupper, Fielding, and Borden, are names that will stand in Canadian history among those who have made the greatest contribution to the national development and to the public welfare of our country.

We are gratified to come to the province of Nova Scotia because wherever we go through Canada we meet Nova Scotians. Your export of manufactured products may not be equal to that of some of the other provinces of Canada, but you have sent to the other provinces of Canada of the very best of the intellectual life and intellectual leaders of this country; and throughout Canada if one went over the names of the presidents of our universities, the heads of our schools, the ministers in our pulpits, one would realize the great and lasting contribution which this province has made to the cultural life of Canada.

You have referred to the fact that it is not to be expected that the Fathers of Confederation, great as was their achievement, could have foreseen all the possible developments since that date, and with that view we agree; and we approach the consideration of the task committed to us in the spirit you have intimated, - with no motive other than the most earnest desire to get at all relevant facts, and to find on these facts the conclusions which the facts would seem to justify, and to report to parliament our findings so that such action may be taken by those responsible in parliament and in the assemblies upon our report as may by the facts and recommendations be justified.

We again thank you for your very cordial welcome.
We will proceed with the sittings.

MR. MACDONALD: Mr. Chief Justice and Gentlemen,
I thank you very heartily for your expressions of regard and esteem for the people of this province, and for the contributions which they have made to other parts of Canada. Before I proceed further I would like to express a word of thanks to my colleagues of the provincial ministry for their assistance in the preparation of this brief, and to various deputy ministers and others in the government service here, whose advice and whose contribution have been extremely valuable. I would like to mention particularly the Deputy Attorney-General, Mr. Mathers; the Deputy Provincial Secretary, Mr. Barnstead; the Assistant Attorney-General, Mr. McDonald; the various officials of the Departments of Agriculture, Public Health, and Education, who have devoted considerable study to those parts of the brief relating to their own particular departments, and whose advice has at all times been of great assistance to us who have had direct charge of the preparation of the brief.

Now, gentlemen, the commission has been appointed to investigate primarily the financial relationship between the Dominion and the provinces. That relationship, of course depends largely upon constitutional arrangements, and accordingly we have set forth first in our submission certain constitutional changes which we believe should be recommended by this commission to the government and parliament of Canada. Some of these constitutional changes involve a new financial relationship between the federal government and the provinces. Some of them have no financial effect. In the light of the constitutional changes recommended and in the light of the legitimate needs and proper aspirations of the people of this province,

we shall then suggest certain changes in Dominion and provincial financial relations. I shall not attempt to read or to dwell upon in any detail the introductory part of this submission, I shall merely refer particularly to pages 5 and 6, where we suggest certain constitutional amendments. First of all we suggest the following:

" 1. An amendment to the British North

America Act to give to the Canadian Parliament and to the Provincial Legislatures the power to amend, by joint action, the British North America Act. We feel that the details of the method of amendment should be agreed upon at a Dominion-Provincial Conference summoned for that purpose.

2. An amendment providing for the transfer by the Dominion to the Provinces of a matter or subject otherwise within exclusive Dominion jurisdiction, and vice versa.

3. An amendment providing for the establishment of a Federal Grants Commission, modelled somewhat along the lines of the Commonwealth Grants Commission in Australia, to consider and report upon applications from the Provinces for special grants or subsidies.

4. An amendment giving the Dominion Parliament exclusive jurisdiction over the subject of marketing.

5. An amendment which would remove any doubt as to the power of the Provinces to impose certain taxes now collected by them and partaking of the nature of sales tax, for example, the gasoline tax.

6. An amendment giving to the Dominion full financial responsibility for old age pensions and

mothers' allowances.

7. An amendment, if any amendment is necessary, (otherwise, a recommendation to the provinces, and to the Dominion) providing for a conference to be held at a fixed time in each year between representatives of the Provinces and representatives of the Dominion.

8. An amendment giving to the Dominion Parliament exclusive jurisdiction over the matters of unemployment insurance, employment service, maximum hours of labour, weekly rest, and allied matters. This recommendation is made on the condition that ample provisions will be made for the full protection of local and particular interests, either by the appointment of Provincial Boards, or, at any rate, of regional Boards for, say, the Maritime Provinces.

9. An amendment giving to the Dominion Parliament exclusive and effective jurisdiction to impose succession and death duties and income tax, if mutually satisfactory arrangements in this regard can be reached between the Provinces and the Dominion.

With regard to Dominion-Provincial financial relations, we shall endeavour to show that the fiscal need of the Provinces should be, and, in fact, has been the dominant factor in determining the amount of Dominion subsidies during the past seventy years.

We shall then trace the effect of the operation of certain Federal policies, notably trade and tariff policies and railway rates, upon the economic life of Nova Scotia. We shall endeavour to show that these policies

have borne heavily upon us, and have lowered the taxable capacity of the province. We shall contend that it should be the aim of the federal government to frame its policies so as to give equality of opportunity to all people within the federation. Where this end cannot be completely attained, the granting of a subsidy to the provincial government would seem to be the next best course, though we realize that subsidies will be inadequate compensation for the harmful effect of federal policies."

THE CHAIRMAN: Mr. Macdonald, to what extent were the questions in that Paragraph 9 raised and dealt with by the White Commission?

HON. MR. MACDONALD: The questions in regard to the effect of federal policies were raised before the White Commission by representatives of this government. I shall continue with the brief.

" We shall compare our taxable capacity with that of other provinces and of the Dominion as a whole, and show that, judged by almost every test, our people are less able to pay taxes than the people of other parts of Canada.

Finally, we shall point out what the fiscal need of Nova Scotia is today, our estimate being based on the constitutional changes suggested, and on the proper expansion of existing or imperative government services, notably in the fields of education, public health, social services, agriculture and fisheries."

Mr. Chairman and Gentlemen, that brings us to Part II of the brief, which deals with constitutional questions, and it is appropriate, I think, that the discussion of those proposed constitutional amendments should be carried

on in behalf of this government by my colleague, the Attorney-General of the province, the Honourable Mr. J.H. MacQuarrie, and with your permission I shall ask Mr. MacQuarrie to present that part of our submission.

THE CHAIRMAN: Mr. Macdonald, it may be that the question will come up again in the course of Mr. MacQuarrie's discussion on constitutional relations, and if so, do not trouble to answer it now; but if it does not come up again, I would like to refer to the statement on Page 2 of the Introduction. You quote from the Maritime Bank ^{case} / rather than the American Bank, at the foot of page 1, the judgment of the Privy Council, then follows an extract from Lord Bryce in "The American Commonwealth". Then the statement:

" The phrase of Federalism referred to in the extracts just quoted is, we believe, one that has constantly to be kept in mind in any investigation of problems arising out of the relation between a federal government and the governments of states or provinces."

I should have thought first in regard to the quotation of Lord Bryce, would not the fundamental difference between the Canadian and the American constitution, namely, that the reserve powers are in the Dominion whereas in the United States they are in the states, make an illustration or an analogy of the two constitutions rather difficult to follow when it comes to the question of reserve power?

HON. MR. MACDONALD: Well, I should say, Mr. Chief Justice, you are not endeavouring perhaps to attach any legal consequences to what Lord ^{Bryce} / said, but if the American states have greater reserve of power than the Canadian provinces would it not seem that Lord Bryce's statement while primarily applicable to American conditions, is even more valuable to us as representatives of a province;

which has less power than an American state.

THE CHAIRMAN: I assumed it was quoted with the view of showing the extent of the power of the state or province. Perhaps that was not the object in quoting it.

HON. MR. MACDONALD: I think it was rather quoted to show, as is said in the next paragraph, "these problems", meaning problems between the central government and the governments of states or provinces. I quote from the brief:

" These problems can be successfully solved when, and only when, the central government has regard to the principle that its policies should maintain the identity of the component parts of the federation."

THE CHAIRMAN: I do not think you get into a quarrel on that.

HON. MR. MACDONALD: No, I do not think we are attaching any constitutional effect. As a matter of, shall we say, good neighbourliness, we feel the central government must have regard - we do not say it has not had some regard - but we feel it is essential, as Lord Bryce points out, not so much, perhaps, in legal matters as in other matters, it should have regard to the well-being of the component parts.

THE CHAIRMAN: Thank you.

HON. MR. MACQUARRIE: Mr. Chief Justice, and Gentlemen of the Commission, may I be permitted to associate myself with the words of welcome extended by our premier, and also with the acknowledgment that he made with regard to the assistance given by our colleagues and the members of the civil service of the province, and particularly the Deputy Attorney-General, Mr. Mathers; the Deputy Provincial Secretary, Mr. Barnstead; and the Assistant Deputy

Attorney-General, Mr. T.D. McDonald.

The constitutional part of the brief, Part II, deals with the nine propositions which the premier read a few moments ago from page 5 and page 6 of the brief. Page 8 deals with the introductory part of Part II, "Propositions Relating to Proposed Amendments of the British North America Act, 1867", and likewise page 9. At the foot of page 9, and on page 10 and page 11 and page 12 is set forth in toto propositions 91 and 92 of the B.N.A. Act, and on page 13 is set forth some principles laid down regarding the construing of Sections 91 and 92. I do not think that any purpose would be served at the moment or that it is necessary to take up the time of the Commission in reading these pages, and with your permission, I would like to go on to page 14, the heading "Propositions," and start from there. On pages 14 and 15, the nine propositions that have just been read are again set forth. I will read from the middle of page 15, at the end of proposition 9:

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Reading from the middle of Page 15 at the end of proposition 9:

" In an endeavour to give a concise but complete picture of the recommendations of the Province of Nova Scotia as to amendments of the British North America Act, the foregoing Propositions have been set forth in relief and they require to be elaborated upon. Before proceeding to this elaboration, it is deemed advisable to indicate a number of considerations that the foregoing enumeration evokes.

In the first place it will be observed that no general sweeping amendment of the Act has been suggested. On the contrary the proposed amendments are restricted to specific instances where the need of amendment has made itself apparent. This has been done deliberately, for it has been felt that amendments ought to be made, not wholesale or precipitately, but in particular cases as the circumstances demonstrate them to be required. By such a policy each step taken provides guidance for the next following step, and unexpected and unwished for ramifications of measures whose consequences were not clearly appreciated will to a large degree be avoided.

In the second place it will be observed that while three out of the nine propositions relate to powers proposed to be transferred to the Dominion, with their attendant costs, the ninth proposition is a proposal to transfer from the Province to the Dominion the levying, collecting and the beneficial use of succession and death duties and income tax. This concession is made from a

realization that if the three proposals to transfer services to the Dominion are given effect to, they will involve an increase in Dominion expenditure and from a realization that in a number of respects the Dominion is able to administer such duties and tax more effectively, economically and uniformly throughout Canada than they can be administered by nine separate provincial authorities or, in the case of income tax, their municipal delegates.

In the third place while the specific instances in which amendments are considered necessary or acceptable have been indicated, it is not considered to be within the scope of this Submission to indicate the exact nature of the amendments themselves. Those are matters to which care and attention of a particular nature will have to be given if and when the desirability of the amendments has been recognized.

In the fourth place it is deemed desirable before going on to an elaboration of the matters of proposed amendment, to refer to one of the premises which underlie the whole of the Submission of this Province and which will be expounded in its various aspects in the following Part. It is that each Province is entitled, if its administration be economic and its expenditures necessary and limited to subjects of provincial legislative competence and accepted governmental responsibility, to have at its disposal sufficient revenue, or the means of reasonably raising the same, to balance its budget in the absence of some extraordinary and temporary circumstances. This postulation, be it understood, refers

only to the opportunity of maintaining the standard of living normal throughout Canada, which will also be dealt with, at a later stage of the Submission. When it is taken into consideration that the residuum of the taxing power resides in the Dominion Parliament and in what measure the taxing power of the Provincial Legislatures has been restricted, whether by the provisions of the British North America Act, 1867, or the interpretations placed upon them by the Courts, the assumption of this premise will not, it is conceived, be deemed unreasonable. Whether in the case of this province the conditions of competent administration of subjects within provincial competence and accepted government functions have been fulfilled, it will be the purpose of another Part of this Submission to demonstrate but it may be permissible to refer briefly in this regard to the Report of the Royal Commission on Maritime Claims, commonly referred to as the "Duncan Report", at page 16, where the Commissioners said about the Maritime Provinces:

* We are satisfied that they do recognize that provinces are expected to supplement their revenues from sources of their own, and that their present financial position does not arise from any misconception such as that provinces should be free to spend as they like and to look to the Government to meet the bill. A review of their financial operations over a long period suggests frugal expenditure.'

And, finally, it is suggested that if any agreement can be reached upon the foregoing Propositions, excluding the Proposition as to providing

a procedure for the amendment of the British North America Act in Canada, or upon the more pressing of these matters, then the matter of finding a satisfactory procedure for amendment of the Act in Canada could very well be postponed for the immediate future and for further consideration as to the nature of such procedure.

We come now to the examination and elaboration individually of the Propositions for amendment of the British North America Act, 1867.

FIRST PROPOSITION

To give to the Dominion Parliament and the Provincial Legislatures the power to amend the British North America Act, 1867, according to a procedure to be determined by agreement between the Dominion and the Provinces.

It is material in this regard to refer briefly to the development of Dominion status within the British Commonwealth of Nations. It is unnecessary, however, for the purposes of this Submission to trace such development step by step and it will suffice to refer to some aspects of the Dominion status as it was immediately following Confederation and as it is today.

As far back as the date of Confederation the principle, early laid down, that no law enacted by a Colonial Legislature should be repugnant to the law of England had given way before the provision of the Colonial Laws Validity Act, passed by the Imperial Parliament in the year 1865, that "Any colonial law which is or shall be in any respect repugnant to the provisions of any act of parliament extending to the colony to which such law may relate,

or repugnant to any order or regulation made under authority of such act of parliament, or having in the colony the force and effect of such act, shall be read subject to such act, order, or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.' The words 'colony' and 'colonial law' were so defined in the Statute as to make them ample to embrace the Dominion of Canada, to which the Act therefore applied.

To regard the status of the Dominion from another aspect, it is to be noted that at the date of Confederation the part played by a colony, in respect of the actual negotiations for a treaty was restricted to the appointment of agents who were not to 'assume any independent character, or attempt to negotiate and conclude arrangements with the governments of foreign countries,' but who would 'only.....be authorized to confer with the British Minister in each foreign country, and to afford him information with respect to the interests of the British North American Provinces.' (See Dewey: The Dominions and Diplomacy, Vol. 1, page 154.) The development in intra-Empire status of Canada that has taken place since that date does not depend, in the aspect which we are now examining, upon any provision of the British North America Act, but upon changing constitutional usage and convention. The extent to which such development has gone is indicated by current treaty making procedure under which a treaty between Canada and a foreign nation may be negotiated and signed on behalf of Canada by Canadian Ministers appointed by His Majesty on

the advice of the Canadian Government, and subsequently ratified by His Majesty upon similar advice; and according to which are recognized treaties in the form of agreements entered into between the Canadian and foreign Governments to which His Majesty is not in form a party.

Finally it is desirable to refer to the reference in the Report of the Imperial Conference of 1926 to '.....the group of self-governing communities composed of Great Britain and the Dominions. Their position and mutual relations may be readily defined. They are autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations,' and to The Statute of Westminster enacted by the Imperial Parliament in 1931 in the preamble to which it is set out that 'it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion,' and which Statute goes on to provide by Section 2:

'2. Validity of laws made by Parliament of a Dominion. —

(1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.

(2) No law and no provision of any law made

after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion.'

By Section 7 thereof the Statute is made inapplicable to the repeal amendment or alteration of the British North America Acts, 1867 to 1930, or any order, rule or regulation made thereunder, and it follows that constitutional amendments for Canada are still within the exclusive legislative jurisdiction of the Imperial Parliament.

There are other indicia of emancipation from Colonial status to that of an 'autonomous community' to which it is unnecessary to refer for it will be apparent from the foregoing that the retention by the Imperial Parliament of legislative control over the constitution of the Dominion is by way of a particular power singled out and retained as against the increasing current of Dominion autonomy. It is unnecessary to argue the point that the power to amend the Constitution would be transferred to the Dominion upon a request to that effect by the Dominion and the Provinces; it is a question of effecting an agreement between the Dominion and Provinces as to the terms upon which the authority to amend may be accepted; not a question of the willingness of the Imperial Parliament to bestow it.

It may be remarked that both the Act relating to the establishment of the Commonwealth of Australia and that relating to the Union of South Africa embody schemes for the amendment of their respective Constitutions without having recourse to the Imperial Parliament.

It is submitted that a similar provision should be introduced into the British North America Act, 1867, for a number of reasons.

In the first place, it behooves Canada, having attained the existing status freely accorded her within the British Commonwealth of Nations, to assume the task of keeping her own domestic affairs in order. It is not considered that it is in any sense humiliating, to have to go to the Imperial Parliament in this regard, nor would much be sought to be made of the argument that it is detractive from the essential dignity of the Dominion to have to do so. Suffice it to say that the submission is put forward upon the ground that if Canada is to achieve full maturity as a nation (albeit within the British Commonwealth) and if her people are to achieve a full and generous citizenship, conscious of their responsibilities, alive to their potentialities; in short, if there is to be a country, complete, and completely Canadian; it is essential that this responsibility, even if it be only symbolic, and, indeed, perhaps because it is symbolic, rest in the Canadian people.

In the second place, it is necessary, in some respects at least, that in practice the Constitution be made easier of amendment. It is essential that

some machinery be devised which may be put in motion when the need arises, and that some definite understanding be reached as to the manner in which and conditions of assent subject to which amendments may be made. Doubtless there will arise occasions when all the Provinces will not see eye to eye; perhaps there will arise occasions when certain proposed amendments will be opposed by one Province or another very strenuously. To fail to anticipate such occurrences would be to ignore the history and nature of Confederations and human nature itself. It will be well that when such contingencies occur the rights of the parties, whether Dominion or Provinces, be clearly defined. At the present time when the compact theory, so called, is still liable to be evoked to support minority views, a proposal for an amendment may entail not only a difference of opinion as to the merits proper of the amendment, but an ancillary dispute as to the circumstances under which minority opinion must give way. The second source of difference, at least, could be removed by a definite scheme for amendment, if a satisfactory agreement about such a scheme could be reached.

The scheme itself will have to be worked out between the Dominion and the different Provinces. It is not the purpose of this Submission to suggest the details or exact nature of it. Considerable progress along the lines of discussion and examination of ways and means and framing of tentative proposals has already been made at Dominion-Provincial Conferences and the final arrangement should be arrived at in the same manner. Amendments of

different kinds might be provided for in different ways; for instance, it might be provided that those Sections which affect the Dominion Parliament alone may be amended in the discretion of such Parliament; that those Sections which are of joint concern to the Dominion and the Provinces should be reserved for joint action; and that those Sections which were enacted as a protection for minority rights can only be amended with the consent of the Provinces affected. The first principle of any scheme of amendment must be that it safeguard minority rights and all other matters in their nature fundamental or that were made the subject of guarantee to the Provinces or any of them at the time of Confederation. The suggestion may be repeated here that if agreement can be reached about the specific amendments referred to in the Propositions numbered 2 to 9, inclusive, of this Submission, the matter of arriving at a satisfactory procedure for the amendment within Canada of the British North America Act may be left for future and detailed consideration, and it may be further suggested that if the specific amendments proposed, or a part of them, are effected and turn out successfully, this fact would have no little bearing upon the task of reaching an agreement about the procedure to be adopted for amending the Act within Canada."

THE CHAIRMAN: Mr. MacQuarrie, before you pass to the second proposition might I ask a question or two on this page? You refer to "At the present time when the compact theory, so called, is still liable to be evoked to support minority views, etc." What is the position of your

government on that question? My recollection is that in the Jones reference you opposed the compact theory, but I may be wrong in that. What is the attitude of your government on that point?

HON. MR. MACQUARRIE: Mr. Chief Justice, our submission to the Jones Commission did not adopt the compact theory, but rather, we took the stand that an agreement should be reached satisfactory to all the provinces if at all possible, and that the objections of any province should be given every possible consideration. I think it is quite clear to anyone that aside from any compact theory or any theory of agreement that it would be very undesirable, if it were humanly possible, to have the provinces fully in agreement on any question of that kind.

THE CHAIRMAN: Well, is it your view then that there should be no provision for an amendment in the B.N.A. Act and the Constitution, unless it is agreed to by all the provinces? I just want to get the attitude, if you have made up your minds on it; if you have not, I do not wish to press it.

HON. MR. MACQUARRIE: The stand that we have taken on this matter has been that everything possible should be done to work out an arrangement that each province could agree to, - that they would reasonably be expected to agree to. Beyond that we have never been called upon, or it has never been necessary for us to state definitely what our view would be in some extreme instance. On the general proposition the idea has always been agreed to, that everything possible should be done to reach an agreement.

THE CHAIRMAN: My recollection is that the Honourable Mr. Davis, in presenting the brief from Saskatchewan, intimated that a plan had been worked out, which, I think,

he said, had been agreed to by all the provinces except one, - I am not sure, - and he filed a memorandum which constituted his report to the legislature on the matter. I do not know whether your recollection agrees with mine or not.

HON. MR. MACQUARRIE: Yes, we took part in the Interprovincial Conference in Ottawa in 1935, at which time a plan had been worked out dealing in the same way as I have indicated in a general way just on the last page, No. 21, although I did not go into detail. That is dealing with the B.N.A. Act in four general parts, and the question that would arise there would be as to which section, or which one of those four parts of the various sections should go in. Some, of course, would offer no difficulty, and some very little difficulty; others might offer some possible difficulty, although my own impression of the meetings that we had there was that the provinces in the main and the Dominion would not have very great difficulty in reaching an agreement on all of the points.

There might be a view, - and that is what I had in mind a moment ago when I said that if we approached the matter from the standpoint of realizing each others difficulties and realizing the background and the history of each province, and the anxiety of each part of the Dominion to look after its own people, that the matters of difficulty when everything was ironed out, or crystallized, would, perhaps, be much smaller than we would expect in the beginning.

THE CHAIRMAN: Thank you.

COMMISSIONER DAFOL: Your suggestion, Mr. MacQuarrie, is that Amendments 2 to 9 should be obtained by appeal to the Dominion Parliament, and the matter of providing a means for the amendments to the Constitution of Canada

can stand over?

HON. MR. MACQUARRIE: Yes, Mr. Commissioner. Our submission^{on}/that is that these specific amendments might be dealt with almost immediately, while working out a procedure for amendment of the constitution in future might take some time; it might take, for instance, two years, and there is no need for these specific amendments to await the settlement of procedure for amending the Constitution. That has been our stand from the beginning; it was our stand at the Interprovincial Conference and we still hold to that view.

If it is agreeable, Mr. Chief Justice, I will go on with the second proposition on page 22.

(Page 3875 follows)

Second Proposition

To provide for the reference or delegation of legislative authority by the Provinces to the Dominion and vice versa.

Section 94 of the British North America Act is as follows:

"94. Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and of the Procedure of all or any of the Courts in those Three Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada to make Laws in relation to anything in this Act, be unrestricted; but any Act of the Parliament of Canada making Provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof."

The only use to which this Section appears to have been put up to the present time, is to demonstrate that the words "Property and Civil Rights" are used in Section 92 (13) in a wide and not in a restricted sense. See *Citizens Insurance Company of Canada vs. Parsons*, (1881), 7 Appeal Cases, page 96 at page 110. It is suggested that the reason the Section has not been used may be found in the words "and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted"; and because no provision was made by which a Province could get back a subject of legislation that under this Section had been given to the Dominion; from which it would appear that once the Dominion were permitted under this Section to encroach

upon a provincial field, the matter dealt with would become exclusively and for all time one for the Dominion.

Section 51 of the Commonwealth of Australia Constitution Act provides:

"51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to: ..."

and the 37th placitum following is:

"51 (xxxvii). Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:"

Mr. John Quick, in his work published in 1919 entitled "Legislative Powers of the Commonwealth and the States of Australia", says at page 593:

"No matters have yet been referred to the Commonwealth Parliament by the States."

But it will be seen from the Report of the Royal Commission on the Constitution, presented to the Governor-General of Australia, 21st November, 1929, that both before and since 1919 many proposals for such references have been considered by the conferences of the State and Commonwealth Prime Ministers, and attention would be drawn here to the following words which appear on page 682 of the Report in respect of the 37th placitum :

"On several occasions agreements have been made, principally at Premiers' Conferences, to submit to the State Parliaments proposals to refer subjects of legislation to the Commonwealth Parliament, with the object of bringing about uniformity. Doubts have been expressed as to the effect of paragraph (xxxvii.) of Section 51

of the Constitution - (a) whether reference may be made in general terms, or only in the terms of a special Act; and (b) whether a reference once made may be withdrawn. These doubts have never been tested, as no reference to the Commonwealth Parliament by all the States simultaneously has ever been made."

It is now suggested that if the 37th placitum under Section 51 of the Commonwealth of Australia Constitution Act, and Section 94 of the British North America Act had been more restricted and had provided for conditional reference of legislation, the fates of the two sections would have been different and their uses greater.

It is submitted that a provision should be inserted in the British North America Act to the effect,

- (a) that a Province may transfer a subject or matter otherwise within exclusive provincial jurisdiction to the Dominion Parliament, whereupon Dominion legislation thereon within that Province will be valid and of exclusive effect;
- (b) that the Dominion may transfer a subject or matter otherwise within exclusive Dominion jurisdiction to a Province, whereupon provincial legislation thereon within the Province will be valid and of exclusive effect;
- (c) that either a Province or the Dominion may take back the subject of delegated authority upon such conditions as to time, etc., as are agreed upon at the time the subject is so transferred.

Various matters of detail will have to be worked out, for example, amending powers during the currency

of legislation by virtue of delegated authority.

It is suggested that had such a section existed previous to the enactment of the Natural Products Marketing Act, 1934, (Canada) and had the matter of marketing come before a conference of the Provinces and the Dominion, the course of legislation upon that matter might have been far different and more satisfactory and much time have been saved and much unproductive expense avoided, because the various Provinces in favour of Dominion regulation of this matter could have delegated their authority so as to bestow upon the Dominion exclusive jurisdiction in this regard. Many other instances will occur. Doubtless a number of the Provinces would have come to an agreement to delegate to the Dominion in a similar fashion such subjects as maximum hours of work, weekly rest, and unemployment insurance, in respect of which Dominion legislation was held to be ultra vires and invalid upon the recent references to the Supreme Court of Canada and subsequent appeals to the Privy Council.

It is suggested that the existence of such a provision in the British North America Act, 1867, might have eliminated the necessity for seeking some, at least, of the specific amendments recommended in this Submission, and if inserted may obviate the necessity of some specific amendments in the future, and it is further suggested that if some of these specific amendments fail through lack of agreement, to be given effect to, such a provision will provide a way in which the Provinces so desiring may vest the necessary jurisdiction to deal with some of the matters in question in the Dominion Parliament.

THE CHAIRMAN: This is a most interesting proposal, you

are putting forward here. For instance you suggest you might deal with unemployment insurance in this way. I thought it was of the essence of the unemployment insurance scheme that it should be Dominion-wide in its scope because of the movement of population from one part of Canada to the other and the importance of a general plan covering the whole field. This would not accomplish that proposal, if any of the provinces held out. Would not this plan be ineffective in a case like that?

HON. MR. MacQUARRIE : No, I would submit not, Mr. Chief Justice. Our submission, and of course it is merely a proposition in a broad general way ---

THE CHAIRMAN: Quite, and it is very interesting.

HON. MR. MacQUARRIE : Is that something like this could be worked out. Assuming that the power is in the Act to make the transfer, then it would be, I would take it, a matter of policy after that as to what would be done. In a matter where all nine provinces were in agreement to transfer, then it would be fairly simple. In a matter where only, let us say, six or eight were in agreement to transfer, the Dominion there might, as a matter of policy, say "It is useless for the provinces to delegate this authority to us unless all nine of them delegate the authority in that particular matter". In other matters they might say "If six or seven or some particular number delegate authority to us that is sufficient on which to go ahead". I mention these merely as illustrations of a policy that might be worked out. Again, we might take an example the other way, of the Dominion transferring power to a province. For instance, the question of Fisheries, that does not concern all of the provinces in the Dominion directly; that is, not all of the provinces have Fisheries within their boundaries. There an agreement might be reached between the Dominion and a particular province or

two provinces for the Dominion to transfer certain aspects with regard to Fisheries to a particular province. I can quite well see that the difficulty your Lordship has pointed out might in some particular matter or at some particular time make the scheme unworkable for that particular thing. There might be, let us say, three or four provinces that were willing to delegate authority in a certain matter and the Dominion there might say it is useless unless a certain number, - and that number might not be all the provinces in a certain instance, - and unless all the provinces are willing to delegate authority there is nothing we can do about the matter". On the other hand our proposition at the moment is merely that power be there. It might be in a given case if the power were there that at some particular period only three or four provinces would agree to make the change. Perhaps in the course of a year or so the others might see the effect and advantage to themselves of making the transfer, and some anxiety or fear they had in the beginning might be removed and the six or seven, or if the nine, whatever might be necessary to put that particular thing in operation, would eventually come about.

COMMISSIONER DAFOE : Would not the Delegation have to be final in many cases, as for instance unemployment insurance? You could not have a scheme of unemployment insurance upset ten years afterwards by a withdrawal on the part of the province of the powers to delegate.

THE HON. MR. MACQUARRIE: I would think, Mr. Commissioner, in a good many cases it would have to be final. There might be other cases where it would not necessarily be final, but I am quite in agreement with you that in many cases it would have to be final.

THE CHAIRMAN: Take unemployment insurance to illustrate, it must be built up and a reserve established.

You could not build up a satisfactory scheme of unemployment insurance where you are providing your reserve to meet contingencies for the future on any sound basis if, say, one of the chief industrial provinces was at liberty to withdraw from the scheme at a certain date. It seems to me it is the essence of such a scheme that it should be actuarially sound and should be on a permanent basis so far as all parties within the Dominion are concerned. I am just raising the questions to get your point of view, Mr. MacQuarrie, but it just strikes me offhand that an illustration would be the case raised by Commissioner Dafoe, where permanence is of the essence of the scheme.

HON. MR. MacQUARRIE: We are fully in agreement with that and while we make mention of the possibility of a transfer back, the main part of the submission is the power to make the transfer from one to the other. The fact that there is power to reach an agreement to transfer back may in many cases have the effect of removing some anxiety or doubt if an occasion were to arise where that might be necessary or helpful. We quite realize and quite agree that in many cases, and in most cases, that certainly no transfer back could be practicable or could be agreed upon for the reasons that have just been stated.

THE CHAIRMAN: You think the reason the Australians have not used this power is under the points you have mentioned rather than the fact they thought it safer to proceed by way of amending the constitution and knowing a great many of the proposed amendments have not been adopted. But they have sought to proceed quite frequently or at least on several occasions by amending the constitution rather than under this section.

HON. MR. MacQUARRIE: I would think that at least was one of the reasons and probably one of the main reasons that more use had not been made of that provision. And dealing

again for a moment with the power to transfer back while in unemployment insurance, for instance, no doubt that would have to be permanent, there are others and I do not know that it perhaps is helpful or necessary for me to attempt to go into details or illustrations. There are others such as the allotment of certain taxes or hours of labour or weekly rest, and other matters of that kind where it might not be necessary to set up any permanent machinery, whereby some provinces might be willing to say, "Yes, we are willing enough in the interests of the whole to endeavor to give that a chance, we are afraid that it may work out so seriously to our disadvantage that we would be unable to continue". And if some arrangement can be made between the provinces and the Dominion that that be tried for some specified time under conditions and arrangements to be agreed upon, it might be easier to get the provinces or to get a sufficient number of the provinces to reach an agreement on some particular subject. What I have in mind is this: Very often a representative, let us say of the province - in fact not only very often but at all times, - on a matter of this kind particularly has to consider not only his own personal views, his own personal feeling as to whether the matter may be sound, but he also has to consider many other things: Whether the anxiety and the fear and perhaps the animosity that might be stirred up in a particular province or a particular section by a matter being unpopular or misunderstood, might not help in a large measure to defeat the greatest effect that might come from that measure being put through or put through too soon, unless these fears and anxiety can be removed in some other way. And what we have in mind mainly is something along this line that could set at rest in a large degree at least the fears of any section of the people or the people in any particular section as to what might happen to them in the event of

some certain plan going ahead.

THE CHAIRMAN: Thank you. Have you looked to see, Mr. MacQuarrie, whether there is a provision of this kind in any other federal constitution or is this something unique in the Australian constitution?

HON. MR. MacQUARRIE: I do not know of any plan of this kind that is actually working and I think the ones that have been mentioned come possibly as near to it as will be found.

THE CHAIRMAN: Thank you.

HON. MR. MacQUARRIE: We come now to the third proposition

Third Proposition.

To provide for the establishment of a Federal Grants Commission to receive, consider and report upon applications from the Provinces for special grants of subsidies.

It is submitted that provision ought to be made for the establishment of a commission to entertain, examine and report upon applications of the Provinces for grants, in addition to those permanent grants provided to be made upon a definite basis such as the per capita grants or subsidies. It is suggested that such a commission might be patterned to some extent upon the Grants Commission in Australia.

Under the provisions of the Commonwealth of Australia Constitution Act, it was provided (Section 87) that during the first ten years from the establishment of the Commonwealth and thereafter until the Parliament otherwise provided, not more than one-quarter of the net revenue from customs and excise duties was to be applied annually by the Commonwealth for the Commonwealth expenditures, and that the balance was to be paid over to the States. Section 96 of the Act provided that

during the same ten year period and thereafter until otherwise provided the Commonwealth Parliament might grant financial assistance to any State on such terms or conditions as it saw fit. The Surplus Revenue Act 1910, provided for per capita payments to the States and for the surplus revenue in the hands of the Treasurer of the Commonwealth at the end of each year to be divided among the States in proportion to population. The expiry of this Act in 1920 left the control of the Commonwealth over expenditure of Commonwealth revenue unfettered by legal or constitutional obligation to the States except as Section 94, which enacted that Parliament might provide on such basis as it deemed fair for the monthly payments to the States of all surplus revenue of the Commonwealth, might be construed as a direction and except as Section 81 might be construed as limiting the power of appropriation to the manner imposed by the Constitution. An agreement entered into between the Commonwealth and the States and validated by the Financial Agreements Act, 1929, provided inter alia that the Commonwealth should pay each of the States annually an amount equal to the payment that had been made to that State on a per capita basis for 1926-27, and for the Commonwealth taking over State debts. The period of the agreement was fifty-eight years.

In 1933, there was passed the Commonwealth Grants Commission Act in pursuance of the power given by Section 96 of the Constitution. It provided for the establishment of a Commonwealth Grants Commission empowered to inquire into and report to the Governor-General upon,

- (a) applications made by any State to the Commonwealth for the grant by the Parliament

of financial assistance in pursuance of section ninety-six of the Constitution;

(b) any matters relating to grants of financial assistance made in pursuance of that section by the Parliament to any State which are referred to the Commission by the Governor-General; and

(c) any matters relating to the making of any grant of financial assistance by the Parliament to any State in pursuance of that section, which are referred to the Commission by the Governor-General.

It is submitted that if a Federal Grants Commission be established as recommended, it should, in dealing with applications for special grants, proceed upon the following broad principles:

- (a) That each Province, assuming upon its part a competent and economic administration and restriction of expenditure to proper provincial purposes, should be enabled to maintain the standard of government services normal throughout Canada upon the basis of a rate of taxation normal throughout Canada, and that where such services fall appreciably below such normal standard or the rate of taxation rises appreciably above the normal rate, these conditions should be corrected by an appropriate special grant;
- (b) that where the people, as distinguished from the government of a Province, have suffered as a result of a Federal policy or as a result of conditions which though not brought about by a deliberate policy are attendant upon the establishment and natural developments of a Confederation, so that the standard of living of such people has fallen below the normal standard of living of the Dominion of Canada, such conditions in so far as they cannot be or are not ameliorated by Federal action should be compensated by appropriate special consideration.

The functions of such a Commission and the principles upon which it is considered such a Commission should proceed will be elaborated upon in the Financial Part of this Submission.

THE CHAIRMAN: Perhaps it would be more convenient, then, that I should defer my questions upon the third Part, would it, Mr. MacQuarrie, until the financial section?

HON. MR. MacQUARRIE: Yes, my Lord. We merely mention it in this part of the Submission as being something that might call for an amendment to the Constitution.

THE CHAIRMAN: Yes, because I should like to ask a number of questions about that.

HON. MR. MacQUARRIE: Yes, I think that would be the better course. I will then, if agreeable, go on with the fourth proposition.

Fourth Proposition

To give the Parliament of the Dominion exclusive jurisdiction over the matter of marketing.

This Proposition is intended to refer to the matter of marketing and the matters incidental thereto which were the subject matter of the Natural Products Marketing Act, 1934 (Canada) which was declared to be ultra vires the legislative power of the Parliament of the Dominion of Canada upon a recent reference to the Supreme Court of Canada, the decision in which was appealed to the Privy Council.

We will skip over the definitions unless it is the desire of the Commission that I should read them, and go on to the middle of Page 27.

It is believed that the Parliament of the Dominion of Canada ought to have exclusive jurisdiction over the matter of marketing as dealt with in this Act for the reason, first, that jurisdiction to regulate intra-

provincial, inter-provincial and foreign marketing ought to repose either in the Provinces or in the Dominion and ought not to be divided between the Provinces and Dominion as it now is, and secondly, for the reason that only the Dominion can effectively deal with marketing in these three aspects. In other words, it is essential that complete jurisdiction over marketing go either to the Dominion or to the Provinces, and it is submitted for the reasons to be referred to that it should go to the Dominion.

An important aspect of the regulation of marketing is the fixing of grades and standards of natural products. In the contemplation of foreign markets, commodities are seldom Nova Scotian, or British Columbian, or any other Province, but they are Canadian; and it is considered essential, therefore, that the grades and standards of commodities be uniform throughout Canada; nor is it considered likely that the different Provinces through independent, even if co-operative, action could attain uniformity throughout Canada of grades and standards. It is to be taken into consideration also that, particularly in respect of agricultural natural products, the Dominion has an organization and the necessary machinery to deal with the regulation of marketing which many of the Provinces have not developed. It is further to be taken into consideration that the negotiation of trade treaties and agreements with which the matter of marketing is associated, is a matter entirely within Dominion competence, and furthermore that it has been generally recognized that the matter of developing export markets is a responsibility of the Federal Government.

It is to be clearly understood that the work

carried on by the provincial Departments of Agriculture and Marketing along the lines of education, instruction and assistance in matters relating to production and marketing, including grading, is deemed to be a service that should be continued by the Province, and it is not intended that the authority of the Province to maintain such service should be in any way curtailed or interfered with by the proposed amendment, and the Proposition for the transfer of marketing to the Dominion is made subject to this understanding.

THE CHAIRMAN: I thought you mentioned grading as one of the matters on the other page.

HON. MR. MacQUARRIE : Yes, compulsory grading but on page 28 what we are referring to is really education and instruction with regard to grading.

THE CHAIRMAN: Instruction in grading?

HON. MR. MacQUARRIE: Yes.

THE CHAIRMAN: The actual legislation relating to grading should be Dominion, but the instruction as to grading should be provincial.

HON. MR. MacQUARRIE : Yes. In other words, to help to live up to whatever the statute called for.

THE CHAIRMAN: Quite.

The present situation in respect of legislative jurisdiction over this subject is indicated in the decisions of the members of the Supreme Court of Canada and of the Judicial Committee of the Privy Council which are reported sub nom Reference Re Natural Products Marketing Act, and sub nom Attorney General British Columbia vs. Attorney General Canada et al, Reference Re Natural Products Marketing Act, 1934, respectively, in 1936, 3 Dominion Law Reports, page 622, and in 1937, 1 Dominion Law Reports, page 691, respectively.

The Natural Products Marketing Act, 1934, as amended by Chapter 64 of the Statutes of Canada for 1935, provided in effect and with qualifications (broadly speaking) that the Governor-in-Council may establish a Dominion Marketing Board to regulate marketing in the manner provided by Section 4(a), already set out; for arrangements to be made for equalization of returns from such products; for local marketing schemes to be instigated by persons engaged in production or marketing and to be regulated by local boards to which the Dominion Board was authorized to delegate certain of its powers; for the Minister administering the Act to propose himself to the Governor-in-Council a local scheme to be administered by the Dominion Board alone or in cooperation with a local board for regulating inter-provincial or export trade in a natural product; for the Governor-in-Council to regulate export and import of natural products from and into Canada. Before a scheme could be approved the Governor-in-Council must have been satisfied that the principal market for the natural product was outside the Province of production or that some part of the product produced might be exported. Part 11 of the Act provided for the Minister to direct an investigation into the spread in connection with the production, processing and marketing of natural products; that any person who, to the public detriment or against the public interest, received a spread that restrained or injured trade or commerce in that product, was guilty of an indictable offence. The final Section of the Act provided that if any Section was ultra vires the Dominion Parliament, none of the other Sections should for that reason be

held to be ultra vires also but should be treated as separate and independent enactments.

The decision of the Judicial Committee of the Privy Council was delivered by Lord Atkin who said in part and in effect, that since the Act covered transactions completed within the Province and which have no connection with inter-provincial or export trade (as it obviously did), the Act purported to affect property and civil rights in the Province; that the Regulation of Trade and Commerce under Section 91 (2) of the British North America Act does not permit regulation of individual forms of trade or commerce confined to the Province; and that their Lordships agreed with the Chief Justice of the Supreme Court of Canada that the Dominion Parliament could not acquire jurisdiction to deal in a sweeping way with such local and provincial matters by legislating at the same time respecting external and inter-provincial trade and committing the regulation of both intra-provincial and inter-provincial or foreign trade to the same authority, as was pointed out in the case of *The King vs. Eastern Terminal Elevator Company*, 1925, 3 Dominion Law Reports, page 1.

It was argued that the legislation in question was within the contemplation of the general words at the beginning of Section 91 of the British North America Act. Lord Atkin said that the same reply applied to this argument as had been made to a similar argument in the Reference concerning Hours of Labour, Weekly Rest, and Minimum Wages. In that case it was said by Lord Atkin in delivering the decision of the Privy Council that their Lordships agreed with that part of the decision of the Chief Justice of the Supreme Court of Canada in the Reference Re Natural Products

Marketing Act which dealt with the argument that the Act there in question could be supported under the general words of Section 91, and that it was to be hoped that the relevant pages of the decision of the Chief Justice would become the locus classicus of the law on this point and preclude further disputes. The argument that the enactment of this legislation was a valid exercise of the power of the Dominion Parliament under the general words of Section 91, to make laws for the peace, order and good government of Canada, was sought to be supported upon the words of Lord Watson in the case of Attorney General for Ontario vs. Attorney General for the Dominion, 1896 Appeal Cases, page 348 at page 361, which are as follows:

"Their Lordships do not doubt that some matters, in their origin local and provincial, might attain such dimensions as to affect the body politic of the Dominion, and to justify the Canadian Parliament in passing laws for their regulation or abolition in the interest of the Dominion. But great caution must be observed in distinguishing between that which is local and provincial, and therefore within the jurisdiction of the provincial legislatures, and that which has ceased to be merely local or provincial, and has become matter of national concern, in such sense as to bring it within the jurisdiction of the Parliament of Canada."

THE CHAIRMAN: That statement of Lord Watkins' has been well denatured, has it not, by subsequent decisions?

HON. MR. MacQUARRIE: Yes, my Lord, it has.

In his locus classicus, which begins at page 633 of Volume 2 of the Dominion Law Reports for the year

1936, the Chief Justice pointed out that the words "property and civil rights" in section 92 (13) of the British North America Act, are used in their widest sense and that the legislation in question admittedly affected civil rights; that the exception at the beginning of Section 91, which excludes from the ambit of the general power by that Section given, all matters assigned to the exclusive authority of the Provincial Legislatures must be given full effect; that the words of Lord Watson already referred to, established no rule of construction nor mean that all the enumerated subjects in Section 92 may change in aspect so as to come within the general words of Section 91; and that, consistently with the case of Attorney General of Canada vs. Attorney General of Alberta, 60 Dominion Law Reports, page 513, (commonly referred to as the "Board of Commerce case"), the case of Toronto Electric Commissioners vs. Snider et al, 1925, 2 Dominion Law Reports, page 5, and the case of Fort Frances Pulp and Paper Company vs. Manitoba Free Press Company, 1923, 3 Dominion Law Reports, page 629, which emphasized the highly extraordinary and exceptional nature of the circumstances that would be required to bring a situation within the contemplation of Lord Watson's words, the argument that The Natural Products Marketing Act, 1934, could be supported by reference to the general words of Section 91 must fail.

It was, therefore, decided that the Act in question was ultra vires the legislative jurisdiction of the Parliament of the Dominion of Canada, affecting as it did civil rights within the Provinces.

The converse of the situation disclosed in the Reference of the Natural Products Marketing Act, 1934,

was disclosed in the case of Lawson vs. Interior Tree Fruit and Vegetable Committee of Direction, 1931 Supreme Court Reports, page 357. The Produce Marketing Act, being Chapter 54 of the Acts of British Columbia for 1926-27, provided for the establishing of committees to regulate the "marketing" of tree fruits and vegetables by determining in respect of such marketing the times, places, quantities and prices. The purported powers of the committee, or some of such powers, were sought to be qualified by the words "so far as the legislative authority of the Province extends." "Marketing" was defined as "the buying and selling of a product and includes the shipping of a product for sale or for storage and subsequent sale and the offering of a product for sale and the contracting for the sale or purchase of a product, whether the shipping, offering or contracting be to or with a purchaser, a shipper or otherwise, but does not relate to the marketing of a product for consumption outside the Dominion, and "market" has a corresponding meaning." Without deciding the effect of the words "so far as the legislative authority of the Province extends," it was held by the Supreme Court of Canada, per Mr. Justice Duff who delivered the judgment of himself, Mr. Justice Rinfret and Mr. Justice Lamont in an action brought to test the constitutional validity of the Act, that since a Committee had attempted, in professed exercise of the authority of the Act, to control the sale of products for shipment from British Columbia into the Prairie Provinces, the plaintiff fruit producer was entitled to a declaration that the Committee had no authority in any manner to regulate or control "marketing" (in the sense defined by the Act) of his product for

consumption beyond the boundaries of British Columbia, upon the ground that trading matters of inter-provincial concern are, upon the authority of *Citizens Insurance Company of Canada vs. Parsons*, (1881) 7 Appeal Cases, page 96, and "*Wharton's case*", *John Deere Plow Company, Limited, vs. Wharton*, 1915 Appeal Cases, page 330, among the matters within the exclusive jurisdiction of the Dominion Parliament under Section 91 (2) of the British North America Act.

Thus it will appear that a Province cannot enact a marketing scheme to completely regulate the marketing of provincial products without running afoul of Section 91 (2) of the British North America Act, and that the Dominion cannot enact a scheme to completely regulate the marketing of natural products produced within Canada without running afoul of Section 92 (13) of that Act.

As to effecting a complete and satisfactory scheme or schemes to cover intra-provincial, inter-provincial and foreign marketing, the words of Lord Atkin in the Reference of the Natural Products Marketing Act, 1934, may be noted where they occur on page 694 of Volume 1 of the Dominion Law Reports for the year 1937:

"It was said that as the Provinces and the Dominion between them possess a totality of complete legislative authority, it must be possible to combine the Dominion and Provincial legislation so that each within its own sphere could in co-operation with the other achieve the complete power of regulation which is desired. Their Lordships appreciate the importance of the desired aim. Unless and until a change is made in the respective legislative functions of Dominion and Province it

may well be that satisfactory results for both can only be obtained by co-operation. But the legislation will have to be carefully framed, and will not be achieved by either party leaving its own sphere and encroaching upon that of the other."

It is hardly necessary to point out that, even assuming the complete cooperation of the Dominion and the Provinces, the situation where the institution of an effective scheme depends upon successfully walking the tightrope of constitutional validity where an "encroachment" is not an encroachment at all, but a step into the thin air spread over the morass of constitutional invalidity, is not a very satisfactory one.

Subsequently to the Reference to the Supreme Court of Canada of the National Products Marketing Act, 1934, and the appeal therein to the Privy Council, a marketing Act of the Province of British Columbia, The Natural Products Marketing (British Columbia) Act, being Chapter 38 of the Acts of that Province for 1934 as amended by Chapters 34 and 30, respectively, of the Acts of the First and Second Sessions, respectively, of the Legislature of that Province for the year 1936, was held to be *intra vires* the provincial Legislature by the Court of Appeal of British Columbia upon a Reference of the Act to that Court *sub nom* Reference Re Natural Products Marketing (British Columbia) Act, 1937 3 Western Weekly Reports, page 273; it having previously been held to be *ultra vires* by Mr. Justice Manson of the Supreme Court of British Columbia in the case of Hayward et al vs. British Columbia Lower Mainland

Dairy Products Board, 1937, 2 Western Weekly Reports, page 401. Suffice it to say, without examining the Act or the ratio decidendi of the decisions referred to, that even upon the view that marketing should be a provincial responsibility, it does not appear that there is any likelihood of provincial marketing schemes effective to regulate the marketing of provincial products designed for extra-provincial consumption, being ultimately upheld by the Courts upon the principles of Reference Re Natural Products Marketing (British Columbia) Act.

THE CHAIRMAN: Do you know whether that last British Columbia decision has been carried to the Privy Council or not?

HON. MR. MacQUARRIE: So far as I am aware, my Lord, it has not. I could make positive of that but my information at the moment is that it has not.

By way of recapitulation, it may be said

(a) that under the present distribution of legislative powers between the Dominion and the Provinces, the Dominion cannot enact a marketing scheme effective to regulate intra-provincial marketing;

(b) that no Province can enact a scheme effective to regulate inter-provincial or foreign marketing;

(c) that for the reasons given at the beginning of this Proposition, power to regulate intra-provincial, inter-provincial and foreign marketing, should repose in one legislative authority and for the further reasons then given, such power should repose in the Dominion Parliament.

Our proposal with regard to that, my Lord, and I will find out definitely while the Commission is here whether it has been appealed, is that whether it should stand on appeal or be reversed on appeal, is not such as

would solve the difficulty of marketing and despite that decision, if correct, ^{marketing} should be under one head.

THE CHAIRMAN: It is obvious if that observation of Lord Atkin is the final conclusion of the Privy Council that if either the Dominion or the provinces enacts legislation which trespasses on the other's field and thus renders the legislation invalid it is pretty hard to work out co-operative legislation between the Dominion and the Provinces.

HON. MR. MacQUARRIE: That is exactly our submission.

THE CHAIRMAN: I think it had been assumed up to that time that if the Dominion and the Provinces enacted legislation which did in fact cover the whole field, that legislation might be effected because the totality of legislative power rests upon the Dominion and in the provinces. But that statement raises very grave practical difficulty in the way of co-operative legislation, if that represents the final view of the Privy Council. The substance of your argument is that as the Courts have held that trade and commerce does not cover the regulation of particular trade within the province, and as peace, order and good government has been limited to matters of an extraordinary nature, not matters of provincial origin and ^{can} become Dominion-wide in scope, it is necessary to have an amendment to the Act to meet the situation.

HON. MR. MacQUARRIE: Yes, my Lord, that is our submission.

THE CHAIRMAN: Exactly. If the trade and commerce power were given its natural meaning, it would appear to be broad enough but it like peace, order and good government has been limited by judicial decision so that it really does not cover what you have in view. Thank you.

COMMISSIONER ANGUS: Are there perhaps some phases of marketing like the milk supply of a city that might be so local in character as not to receive adequate attention

if the power to regulate marketing were exclusively a Dominion power?

HON. MR. MacQUARRIE: There are phases, Mr. Commissioner, such as you now have mentioned that could very well be taken care of by the local authorities and would not be open to the same objections as some others, that although at the moment under provincial jurisdiction, would be very hard to deal with in a practical way due to the fact, as the Chairman mentioned a moment ago, the moment you step into the Dominion jurisdiction your troubles begin and your Act is invalid. Some of those matters, such as dealing with milk, for instance, in a particular locality, where there was no possibility of it coming into trade between the provinces or outside the provinces, might be dealt with or reserved in some way. It might possibly be that while the Commission is here you would like to hear later from one of our Marketing Department on that particular subject, and some of those questions, that is that particular question in this province at least up to the present time has been dealt with largely as a purely local or municipal matter and is under the various cities and towns of the province.

COMMISSIONER ANGUS: But could they deal with it in that way if marketing were made an exclusive Dominion power?

HON. MR. MacQUARRIE: There might be this, and in the main what we have in mind in our brief would not take in things of the nature such as you have mentioned. Here, as I say, they come under the cities and towns. Then when we go to marketing as defined in the Act I think we will find there that matters of the nature you have in mind, sir, are not covered or contemplated, that is, would not be covered in the transfer to the Dominion. That is if we go back to the bottom of page 26 and the top of page 27. I skipped the reading of those definitions.

COMMISSIONER SIROIS: It is pretty wide. "Marketing"

includes buying and selling, shipping for sale or storage and offering for sale." That is quite wide.

HON. MR. MacQUARRIE: Yes, and then "Natural Product".

THE CHAIRMAN: The Act originally, as I recall it, only included approved schemes. If a scheme were approved it would cover it in respect of any commodity which was covered by the scheme. But there is a very interesting recent decision of the Judicial Committee on an appeal from Northern Ireland in which they held in the case of the sale of milk that the law relating to licensing of dairies for the sale of milk did not come within the provision in the constitution prohibiting interference by legislation with trade between residents of Northern Ireland and those living outside. The Privy Council held that a law requiring a licence to a milk dealer who resided outside Northern Ireland did not fall within the prohibition because licensing the sale of milk and regulations for its purity was a matter relating to public health rather than to trade, and they excepted that from the general regulation. But one would think if milk were one of the commodities in respect of which an agreement were made it would fall under this definition in this Act.

HON. MR. MacQUARRIE: Yes, I think, my Lord, that marketing as dealt with in the Act did not contemplate the covering of matters such as those to which the Commissioner has drawn attention.

COMMISSIONER ANGUS: Well, Mr. MacQuarrie, the Act could only deal with inter-provincial marketing, and only could extend to those things, but if we are considering a constitutional amendment that would give power to the Dominion, then we would have to be quite clear what it dealt with and what its limitations were, if there were any limitations.

HON. MR. MacQUARRIE: I fully agree with you, Mr. Commissioner, that in any transfer of that kind or in any amendment of that kind every care would be necessary. It would be a matter of detail to see that those matters that are purely local, such as the milk supply of the town and city would be reserved to the local authorities either through the provisions in the Act dealing with the board and such like or in any other manner.

COMMISSIONER MacKAY: Have you given any consideration to the question of dealing with marketing in the same manner in which agriculture and immigration are dealt with, under Section 95 of the British North America Act, that is to say, a concurrent power of marketing?

HON. MR. J. H. MacQUARRIE: We do not deal with that in this Brief, but it is a matter which might very well receive serious consideration. One of the objections to such a measure, and just what weight should be attached to this objection, I could not at the moment say, is that all provinces should strive to avoid duplication. This province has been particular in its efforts to avoid duplication, but there might be, in the view which you have just expressed, sufficient to outweigh any consideration which might arise with regard to duplication. It is a thought which I feel should be given very careful consideration in the working out of any amendment which might be considered under this proposition.

I shall now proceed with the next Proposition; which is the fifth:

"To remove any question as to the jurisdiction of the provinces to impose taxes collected by the provinces partaking of the nature of sales tax.

In considering sources of new revenue, there is to be kept in mind the principle already postulated that under normal conditions the province should have available sufficient revenue, or sufficient sources of revenue, to balance its budget, provided always that the provincial administration be economic and restricted to accepted functions of government within provincial competence. It is also to be kept in mind in this regard that the point at which provincial revenue will be sufficient depends upon

"two variables: (1) the services required of the province, and (2) the amounts of subsidies which the province obtains from the Dominion.

Under the provisions of the British North America Act, the sources of provincial income are dealt with and limited by two heads of Section 92, namely, Section 92 (2), "Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes", and Section 92 (9), "Shop, Saloon, Tavern, Auctioneer, and other Licenses, in order to the raising of a Revenue for Provincial, Local or Municipal Purposes." It need not be demonstrated that the important heading is Section 92 (2), and it will be noted that the field of Dominion Taxation may extend to any mode or system whatsoever, including of course direct as well as indirect taxation, while the provincial fields are definitely and absolutely limited to direct taxation.

Whatever may have been the intention of the Fathers and Authors of Confederation when they conferred upon the provinces powers of direct taxation, suffice it to say that the criterion applied to-day to determine whether a province in imposing a tax has kept within its own powers or has purported to encroach upon the field of indirect taxation, is the definition of John Stuart Mill, which, as the standard, has been firmly established by a long line of cases including the two now to be referred to, and which is as follows:

'Taxes are either direct or indirect. A direct

"tax is one which is demanded from the very persons who it is intended or desired should pay it.

Indirect taxes are those which are demanded from one person in the expectation and intention that he shall indemnify himself at the expense of another; such are the excise or customs. The producer or importer of a commodity is called upon to pay a tax upon it, not with the intention to levy a peculiar contribution upon him, but to tax through him the consumers of the commodity, from whom it is supposed that he will recover the amount by means of an advance in price."

It is suggested, that if the from time to time members of the Privy Council in general leaned in favour of the provinces in interpreting those Sections, 91 and 92, of the British North America Act dealing with the distribution of legislative powers and responsibilities, they appear to have leaned quite the other way when it was a question whether a tax sought to be imposed by one of the provinces to support such responsibilities and powers was within the scope of Section 92 (2) which authorized the province to impose direct taxation within the province in order to the raising of a revenue for provincial purposes.

It is submitted that the provinces, in the interests of balanced budgets and in accordance with the principles above referred to throughout this Submission, ought to be permitted to enter the field of indirect taxation to the extent at least of being allowed to impose taxes of the nature

"referred to in this Proposition.

The situation in respect of the jurisdiction of the provinces in this regard may be brought into relief by a brief reference to two cases that were decided in the Privy Council. In 1927 this body was called upon to consider the constitutional validity of the Fuel-Oil Tax Act, being Chapter 251 of the Revised Statutes of British Columbia, 1924. The case is reported sub nom Attorney General for British Columbia vs. Canadian Pacific Railway Company, 1927 Appeal Cases, page 934. This Act provided by Section 3, in effect, that every person who within the province purchased fuel oil when sold for the first time after its manufacture in or importation into the province, should pay a tax thereon to be levied and paid as provided. Section 4 provided, in effect, that every vendor, at the time of sale to such a purchaser, should levy and collect the tax and account for it. Section 6 provided that every person, subject to exceptions, who had in his possession for consumption any fuel oil in respect of which no tax had been paid, should, prior to consumption, pay the tax. The decision of the Judicial Committee was delivered by Viscount Haldane who took the principle laid down in earlier cases that the definition of John Stuart Mill, which is set out above, is to be taken as a fair basis for testing the character of the tax in question, not as a legal definition but as embodying with sufficient accuracy an understanding of the most obvious indicia of direct and indirect taxation, and that validity in accordance with such tendencies, and not according to results

"in isolated or merely particular instances, must be the test. Taking this principle, His Lordship held that while it might be true having regard to the practice of the Canadian Pacific Railway Company that the oil they purchased was consumed by them and not afterwards re-sold, they might on the other hand develop their business so as to include the re-sale of the oil they had bought and that if this was practical the tax, under the principle referred to, was indirect, fuel oil being a marketable commodity and those who purchase it acquiring the right to take it into the market; and he held the tax to be indirect and ultra vires the provincial Legislature.

In the year 1934, the Privy Council was called upon to consider the constitutional validity of the Fuel-Oil Tax Act, 1930, of the same province. The case is reported sub nom Attorney General for British Columbia vs. Kingcome Navigation Company, Limited, 1934 Appeal Cases, page 45. This Act provided for a tax to be paid by every person who consumed any fuel oil in the province, in respect of that fuel oil, at the rate of $1\frac{1}{2}$ cents per gallon, the tax to be paid and collected as provided by the regulations. Lord Thankerton, who delivered the decision of the Board, said that the test was John Stuart Mill's definition, which is set out above, and that according to this definition the tax was direct and within the competence of the provincial Legislature. It would appear from the decision of the Privy Council in this case that it may be said that the question whether a tax is direct or indirect is to be determined therefore by the ap-

"plication of that definition; that the question whether a tax is indirect or direct cannot depend upon those special events that may vary it in particular cases, and the fact that by contract or arrangement individual taxpayers may recoup themselves, does not alter the nature of the tax; nor in looking to see if the ultimate incidence is upon the person from whom the tax is demanded, do you consider the "ultimate incidence" in the sense of the political economists, but rather whether the tax is one whose incidence is by its nature such that normally it is borne by the first payer and is not susceptible of being passed on. It was pointed out by His Lordship that where a tax is imposed in respect of a transaction or in respect of some dealing with commodities the taxing authority is indifferent as to which of the parties to the transaction ultimately bears the burden, so that the tax is not intended as a peculiar contribution upon the particular party selected to pay it; such a tax, by necessary inference, would be indirect. Their Lordships were unable to find in this case justification for the suggestion that the tax in question was truly imposed in respect of the transaction by which the taxpayer acquired the property in the fuel oil or in respect of any contract or agreement under which the oil was consumed, and as has been stated their Lordships came to the conclusion that the tax imposed by the Act under consideration was direct taxation within the meaning of Section 92 (2) of the British North America Act, and further, that the Act was not invalid

"as infringing upon Section 91 (2) relating to the regulation of trade and commerce.

It will occur from the foregoing that what is being asked for is not so much authority to impose a tax, as authority to impose that tax in a particular and effectively collectible manner. To elaborate, there appears to be no doubt about the jurisdiction of the province to impose a tax, say, upon the residents of the province in respect of the apples they actually consume; but to impose a tax of like ultimate effect in a way in which it could be effectively collected, for example, by imposing it on the retailer who would in turn pass it on to the consumer, is another question, and such a tax would be ultra vires the province.

There is at present in force in the Province of Nova Scotia a tax called the gasoline tax imposed by the Gasoline Tax Act, 1926, as amended, the effective provision of which is that every person purchasing or receiving delivery in Nova Scotia of gasoline for his own use shall pay a charge or tax at such rate not exceeding eight cents a gallon as the Governor-in-Council from time to time determines on all gasoline so purchased or received; and that the Governor-in-Council may make regulations for carrying out the provisions of the Act. Under the regulations so made a licensee, i.e. a person licensed to sell gasoline under The Gasoline Licensing Act, 1934, collects the tax from every purchaser to whom he sells gasoline and pays it to the Minister of Highways or to the vendor from whom such licensee

"purchases, at the time of making such purchase, if such vendor has an agreement with the Minister for the collection of the tax.

It will be apparent that the scheme of the Nova Scotia gasoline tax, particularly in the respect that the tax is in the first instance to be paid by the licensee at the time of purchase by him from a vendor with whom the Minister has an agreement for collection of the tax, is not entirely free from doubt in respect of its constitutional validity, and the tax being a necessary and otherwise proper one for the raising of a provincial revenue, it is submitted that by amendment to the British North America Act, any question that might be raised as to the jurisdiction in this regard of the provinces should be resolved in the provinces' favour. While it is fairly clear that the province by properly framed legislation may impose a tax upon the ultimate consumer, it is equally clear that difficulties in collecting such a tax, without bringing it within the field of indirect taxation, are so considerable as to greatly impair the value of this power.

In 1934 there was enacted by the Legislature of the Province of Nova Scotia, the Fuel Oil Tax Act. It was amended by Chapter 50 of the Acts of 1936. The Fuel Oil Tax Act has never been proclaimed. It provides in substance that every person who consumes any fuel oil in the province shall pay a tax thereon at a rate not exceeding one cent a gallon, and under the rule of the "Kingscome Case" (Attorney General for British Columbia vs. Kingscome Navigation Company, 1934 Appeal Cases, page 45) would

"likely be held *intra vires* the provincial Legislature.

It may be said by way of recapitulation

(a) that a province may, by properly framed legislation impose a tax upon persons within the province in respect of commodities actually consumed by such persons;

(b) that the practical difficulties of collecting such a tax limit the classes of commodities in respect of which it may effectively be applied, and for this reason and because of the practical difficulties of collecting the tax even when applied to such limited classes of commodities, the value of the tax to the province is seriously impaired;

(c) that it is essential to the obtaining of sufficient revenue by certain of the provinces, including this province, that they should have undoubted legislative competence to impose the taxes now collected by them partaking of the nature of sales tax;

(d) that to remove any doubt as to such legislative competence the British North America Act should be amended to permit the provinces if necessary to enter, to the extent of such taxes, into the field of indirect taxation.

It is apprehended that the Dominion, if otherwise willing to give effect to this Proposition, may wish to remove a number of specified commodities, such as liquors, tobaccos and malt, from the application of such permissive amendment, and the Province of Nova Scotia would be satisfied to have such commodities excluded from the application of provincial taxes of the nature referred to."

THE CHAIRMAN: Mr. Macquarrie, all of the provinces now have a tax on gasoline, have they not?

HON. MR. MACQUARRIE: Yes, my Lord.

THE CHAIRMAN: Have any of those Acts been questioned in the Courts?

HON. MR. MACQUARRIE: No, my Lord. I am speaking of the Gasoline Tax Acts though, not the Fuel Oil Tax Acts which I have mentioned.

THE CHAIRMAN: No, the distinction is drawn in the Canadian Pacific Case. In that Case there was a possibility that the first purchaser after import might pass the tax on. This Gasoline Tax, as I understand it, is upon the consumer and the last vendor collects the tax for the government.

HON. MR. MACQUARRIE: Yes.

THE CHAIRMAN: Where do you see any question as to the validity of such a tax? Isn't that clearly a direct tax? You are simply using the vendors as part of the machinery for collecting the tax. I am just asking this question for the purpose of being clear upon that point.

HON. MR. MACQUARRIE: What we are submitting, my Lord, is that while we do not believe it could be very successfully attacked in the court, it is rather a roundabout way of imposing a tax. I believe that we have an undoubted right to impose the tax, but I think it should be agreed by all that the right be given to us to impose this tax in a more direct manner so that we would not have to appoint the vendors of gasoline as the tax collectors. The same method of collection is used to collect the Theatre Tax and the Amusement Tax. The ticket seller at the door of the theatre is really the tax collector for the province.

our submission is that the province should be given the power to do this by an easier method. In some cases the last vendor to the retailer, as in the case of the gasoline tax, has to pay the tax when he buys the gas. It is our submission that aside from the possibility of the power of taxation being declared invalid, that from a practical standpoint, the province should be given this power. I think it is desirable that the tax be imposed in some other manner than in this, shall I say, crude manner. Our submission in essence, is this; it is hardly fair to the province to force it to resort to this roundabout method of collecting a tax which they undoubtedly have a right to collect.

THE CHAIRMAN: I think it was the provincial treasurer for Saskatchewan who argued in favour of the same proposition which you are now advancing. He believed that it was an unnecessary expense to which the province was put in the collection and administration of the tax by reason of having to pay gasoline vendors certain compensation and by reason of the fact that a large staff was necessary to do the work of checking up on these people.

HON. MR. MacQUARRIE: The province might save a substantial sum if it were entitled to levy it on the gasoline companies. I, personally, have always had a certain amount of doubt as to whether we get all of the tax to which we are entitled by this system of collection. The Highway Department seems to be, perhaps, a little more satisfied on that point than I am. My own feeling has always been that if we do get everything for which the Act calls, then it is rather in spite of the system than because of it.

COMMISSIONER DAFOE: You could prevent that becoming

an indirect tax if you collected it in the manner which you suggest. You could prevent any increase of tax being passed on.

HON. MR. MacQUARRIE: Yes, of course, the consumer pays the tax now and to all intents and purposes, it is an indirect tax. However, the wording of the Act is such that, on the face of it, it makes it a direct tax. In this way the liability of the tax is removed, insofar as is possible, and it cannot be called an indirect tax. The present method of collection, we submit, is inconvenient, costly and subject to losses. We feel that these features should be removed from the tax so that it can be collected in a reasonable business-like manner.

COMMISSIONER DAFOE: It would not mean any more to the consumer, that is the point I am getting at?

HON. MR. MacQUARRIE: No.

COMMISSIONER DAFOE: There would be no way by which the vendor could do anything

HON. MR. MacQUARRIE: No, that is exactly our point. This present method does not help the consumer, in fact it does not help any person but causes some unnecessary inconvenience, unnecessary cost and probably unnecessary losses to the province.

THE CHAIRMAN: There is just one other question on this page 36, before you pass on to your next Proposition. In one of the Briefs which was submitted to us in Ottawa, it was strongly urged upon the Commission that legislation which left the fixing of the amount of a tax to the Governor-in-Council or Cabinet Minister, was not sound in principle. Strong representations were made against such legislation. It just occurred to me when you were

reading page 36, those words;" that every person purchasing or receiving delivery in Nova Scotia of gasoline for his own use shall pay a charge or tax at such a rate not exceeding eight cents a gallon as the Governor-in-Council from time to time determines--". I assume that this legislation leaves the amount of the galloneage tax in the hands of the governor-in-Council, to determine. It was this type of legislation which was protested against --I am not sure whether it was in the Brief of the Canadian Manufacturers' Association or that of some other organization. This is not characteristic of one province, it is done in many provinces. I do not remember the illustrations they gave in that Brief, but I see it is illustrated here. What is the advantage in having the amount of the tax left to the Governor-in-Council? Why should not the Legislature fix the amount of the tax?

HON. MR. MACQUARRIE: This particular tax was not to exceed eight cents per gallon. I think, one can appreciate the objections which your Lordship has outlined, but on the other hand, there might be times when it would be desirable to have this matter in the hands of the Council. I doubt, if in this particular case, any harm could possibly arise by dealing with it strictly in the statute, other than the possibility of having to wait, possibly six or eight months, before the tax could be changed to meet changing conditions. These conditions might warrant it being raised or lowered. I feel, myself, that such a power, properly restricted, might well be left with the Executive Council of any government. After all, in dealing with it, they must realize their responsibilities and realize what is likely to happen if they do not handle it

properly.

THE CHAIRMAN: What is the amount of the tax imposed in Nova Scotia, eight cents, or is it lower?

HON. MR. MacQUARRIE: It is eight cents, sir.

THE CHAIRMAN: Of course, the argument is one based upon the principle that the amount of the tax should be fixed by the Legislative Assembly, and the administrative details left in the hands of the Ministers. Perhaps, when the treasurer comes to discuss the matter, he will give us the benefit of his view upon it; it was very strongly pressed upon us by the Canadian Manufacturers' Association.

HON. MR. MacQUARRIE: Before leaving the fifth proposition, I might just draw your attention again to the fact pointed out on page 36 that in some cases the last vendor--dealing with the gasoline tax--has to pay the tax when he buys the gas. Of course, we are always faced with the possibility that some vendor will refuse to be a tax collector for the province. Now, I will pass on to the sixth proposition. I quote:

SIXTH PROPOSITION

"To provide for the Dominion to assume full financial responsibility for old age pensions and mothers' allowances.

The former service, which now includes pensions for the blind, is presently administered by the provinces, the money being contributed as to seventy-five per cent of it by the Dominion, and as to twenty-five per cent of it by the province, and the cost of administration being borne entirely by the province. Because of the nature of the scheme, it has never yet come before the Courts, but it is not at all inconceivable that this might happen. The words of

"Lord Atkin in the Reference of The Employment and Social Insurance Act, as they appear on page 687 of Volume I of the Dominion Law Reports for 1937, should be considered in this respect. His Lordship said, "But assuming that the Dominion has collected by means of taxation a fund, it by no means follows that any legislation which disposes of it is necessarily within Dominion Competence."

I might point out that this is an illustration of the Proposition which was mentioned, that the province might delegate authority to the Dominion, or the Dominion to the provinces. In the beginning, the provinces were not in agreement upon this matter, but after a period of several years the different provinces saw the benefit of adopting such a scheme of old age pensions. It is because of this, that we have it as it is to-day. I continue at the bottom of page 37:

"Mothers' allowances, differing in some degree from province to province, are at present entirely supported by the individual provinces in which they are administered. "It would appear that such services as old age pensions and mothers' allowances, although, as it has been said, the constitutional validity of the schemes under which they are administered has never been considered by the Courts, come within the class of matters relating to property and civil rights within the province or the class of matters of a merely local or private nature within the province.

It is submitted that the entire cost of such services should be assumed by the Dominion because the costs of such services at present constitute a burden, to the extent that they are borne, upon a

"number of the provinces. Nor is it considered that in such a service as mothers' allowances, the amounts that can be paid and the circumstances to which the allowances can be extended ought to be restricted in any province below the normal standard of such services throughout the Dominion, because such province through no fault of its own cannot obtain sufficient revenue to support the normal standard. Such, however, may be the case where the service is an entirely provincial one. The expenditure of Dominion revenues in support of such services should, having in mind the words of Lord Atkin previously referred to, be placed upon a firm constitutional basis by an appropriate amendment to the British North America Act bestowing upon the Dominion Parliament an undoubted jurisdiction to expend money for such purposes."

THE CHAIRMAN: The Dominion does not, at present, contribute anything towards mothers' allowances, does it?

HON. MR. MacQUARRIE: No, my Lord.

THE CHAIRMAN: It is wholly a provincial matter?

HON. MR. MacQUARRIE: Yes, it is entirely a provincial matter.

THE CHAIRMAN: Not only the subject matter of the legislation, but it is a provincial responsibility to supply the money? Do these allowances vary in some degree from province to province, or are they fairly uniform?

HON. MR. MacQUARRIE: No, they are not uniform, there is considerable variation.

THE CHAIRMAN: Your Proposition is two-fold, one that the Act should be amended in order to make it perfectly clear

that the Dominion has the right to make provisions concerning it, and that the Dominion should provide the whole amount?

HON. MR. MACQUARRIE: Yes, my Lord.

THE CHAIRMAN: If the Dominion provided the whole amount, who would administer it?

HON. MR. MACQUARRIE: I would think if the Dominion provided the whole amount, the Dominion would control the administration of it; whether they did it to some extent by regional boards or provincial boards, would be a matter of detail. I certainly would think that they would expect to control the administration of it. Our view would not favour the Dominion paying the money and the province controlling the administration. We would prefer to have the Dominion control it, so that it could be kept uniform and upon a sound economic basis. I will go on with the Seventh Proposition:

SEVENTH PROPOSITION

"That provision ought to be made, by way of amendment of the British North America Act or otherwise, for annual conferences to be held at a fixed time between representatives of the provinces and representatives of the Dominion.

From time to time Dominion-Provincial and Inter-Provincial conferences have been held among the provinces and the Dominion of Canada.

The first inter-Provincial conference was held at the City of Quebec in 1887. It was convened by the Premier of Quebec and all the provinces then forming part of the Dominion, except Prince Edward Island and British Columbia, were represented. The Dominion Government was invited to send a representative

"but apparently did not do so. At this conference a number of questions as to the autonomy of the provinces, their financial arrangements, and other matters of provincial interest, were considered. Subsequent inter-provincial conferences were held at the City of Quebec in 1902, and at Ottawa in 1910, 1913, and 1926. The first of these conferences was called by the Premier of Quebec, and that province together with Nova Scotia, New Brunswick, Prince Edward Island and Manitoba were represented, and resolutions were passed respecting subsidies and grants by the Dominion to the provinces. The 1910 conference was convened by the Prime Ministers of Ontario and Quebec at the request of the Prime Ministers of Nova Scotia, New Brunswick and Prince Edward Island, to consider the representation of the Maritime Provinces in the House of Commons of Canada. The 1913 conference was likewise convened by the Prime Ministers of Ontario and Quebec and resolutions were passed respecting subsidies and other matters. All the provinces were represented and the Prime Minister of Canada, upon invitation of the conference, attended one of the sittings. At the conference of 1926, the matter of subsidies was discussed and the matters of succession duties, corporation taxes and incorporation of companies, fuel products and distribution, and the sale of shares legislation. All the provinces were represented but the Dominion was not invited.

The first Dominion-Provincial conference was held at Ottawa in 1906, and was convened by the Prime Minister of Canada to consider financial subsidies to the provinces, all of which were represented.

"Subsequently, Dominion-Provincial conferences were held at Ottawa in 1918, 1927, 1934 and 1935. The 1918 conference, convened by the Prime Minister of Canada, considered the problem of soldiers' settlement, the general problem of land settlement, and the request of the Prairie Provinces for the transfer to them of their natural resources, and all the provinces were represented. At the 1927 conference all the provinces were represented, and constitutional, financial, social and economic matters were discussed. The 1934 conference discussed unemployment and relief measures, and the agenda of the 1935 conference included the following questions:

(1) Questions relating to the procedure that should be followed in amending the British North America Act.

That is a matter to which reference was made earlier this morning. Continuing:

(2) Questions relating to the financial relations between the Dominion and provinces, and to Taxation.

(3) Questions relating to Unemployment and Relief.

(4) Questions relating to responsibility for, and co-ordination of Social Services.

(5) Questions relating to Mining Development and Taxation.

(6) Questions relating to Agriculture and Marketing.

(7) Questions relating to Tourist Traffic Development.

In November 1937 a conference was held at Ottawa between Dominion and Provincial representatives administering old age pensions.

These conferences have proved to be very valuable and have produced results beneficial not only to the

"provinces but to the Dominion as a whole.

Similarly in the Commonwealth of Australia, according to the Report of the Royal Commission on the Constitution presented to the Governor-General on the 21st November, 1929, conferences have been held between the Prime Ministers of the different States of the Commonwealth almost every year since the establishment thereof in 1901. At most of these conferences a Commonwealth Minister has attended and in recent years the Prime Minister of the Commonwealth has opened the conference. In 1907 New South Wales undertook to provide a secretariat which would serve as a link between successive conferences. Most of the attention of the conferences has been devoted to two topics; financial relations of the States and the Commonwealth, and the problem of industrial relations. At a conference of the Commonwealth, and the problem of industrial relations. At a conference of the Commonwealth and State Prime Ministers in 1929, it was resolved that the meeting of the Prime Minister of the Commonwealth with the Prime Ministers of the States be held annually.

It is submitted that the idea embodied in the practice of such conferences should, in the Dominion of Canada, be elaborated and extended and that provision should be made, perhaps in the British North America Act, itself, for annual conferences between the Premiers of the different Provinces and the Prime Minister and other executive heads of the Dominion Government, to be held at a fixed time. The conferences should have a small but efficient secretariat to insure continuity of the proceedings, arrange the

"agenda, collect data, and perform other like duties. Attendances should not be made to depend upon whether the provinces have particular issues to bring before the conference, but should be regular and as a matter of course. Each conference in some of its aspects at least should be an informal round table where the problems or the difficulties of any province could be brought out and aired informally. Where, for instance, a trade practice current in one province and capable of regulation by the Legislature of that province or of amelioration by discreet action on the part of the Government of that Province, was felt by one or more of the other Provinces to be unfair to the residents thereof, such problem could be discussed between the Premiers of the Provinces concerned or by the whole conference in a merely informal way. While discussion upon certain topics would doubtless have to depend upon notice given and inclusion on the agenda, a large range of other matters could be discussed in the informal manner referred to. An appreciation of difficulties, brought home in a friendly way, without obligation on those concerned to act, or to act in a particular way, or for a particular time, is sometimes productive of cooperation and correction, where formality and the fear of incurring definite and unavoidable obligation will retard corrective action and estrange sympathy. The representation of each province might be unlimited since no legal consequences would flow from the conferences, or it might be restricted within specified limits, and those heads of departments by whom any Province or the Dominion would be represented, would

"depend on that province or the Dominion and upon the matters intended or likely to be discussed. Through the secretary, any province might request the attendance on behalf of the Dominion of the head of a particular department, and through the secretary or directly, might suggest the attendance of a head of a particular department in any other province. Conferences for particular purposes, such, for example, as those that take place from time to time between the different provincial departments administering old age pensions or administering the different provincial company laws might be held upon the occasion of the annual conference and where convenient these conferences could be made a part of the major conferences.

One matter that might conceivably be dealt with by such conferences would be proposals to refer subjects to the Dominion Parliament by the Provincial Legislature or vice versa under the plan proposed in Proposition number two. Proposals to refer legislation have from time to time occupied the attention of the Australian conferences although, and perhaps for the reason previously indicated under Proposition number two, the activities of the conferences in this regard do not seem, from the Report of the Royal Commission already referred to, to have met with entire success; although in this regard attention may be drawn to the words of the Report at page 181:

'Witnesses who had attended one or more conferences on behalf of their respective States said that the value of these conferences could not be judged from

"the presence of the same item on successive agenda papers. The conferences may not be successful as instruments for having proposals passed into law, but they have considered or formulated agreements between one or more States which have been or are being carried into effect. In a greater number of instances recommendations or resolutions of a conference have not been carried out, but in many instances suggestions have been made which have brought about legislation on the part of the Commonwealth or of one or more States."

Indeed perhaps the most important function of the Canadian conferences proposed would not lie in getting anything done directly at the conference itself in the sense of having legislation definitely agreed upon or definite schemes actually instituted, but would lie rather in the opportunity for discussion and for creating a spirit and an attitude of cooperation among the provinces and the Dominion, and a willingness based upon sympathy and understanding, on the part of one section of the Dominion to assist in so far as possible in correcting the difficulties of another section. As illustrative of the work of the Australian conference, the following excerpt is taken from the Report already referred to; see page 183:

"Evolution.

In 1920 on the motion of the Prime Minister a resolution was carried at a Premiers' conference in the following form:--

(1) That it is desirable that each of the Parliaments of the States should refer to the Parliament of the Commonwealth pursuant to section 51 (xxxvii)

"of the Commonwealth of Australia Constitution Act the matter of the control of air navigation, but so as to retain to each State (a) the right to own and/or use for the purposes of the government of the State air-craft operating within the State, and (b) the police powers of the State.

(2) That it is desirable that pending the passing of legislation by the Parliament of the Commonwealth pursuant to such reference the States shall each enact regulations similar to the Imperial Act, (9 George V., ch. 3, to secure uniform legislation and regulations. That the Premier of New South Wales as executive officer be requested to draft and submit to the State governments (a) a bill to provide for the regulations for the control by the Commonwealth of the necessary powers in accordance with the terms of paragraph 1 of the foregoing resolution, and (b) a bill to provide for uniform action by the States pending the passage of Commonwealth legislation.'

The Commonwealth thereon passed the Air Navigation Act 1920. Four States dealt with the matter. Tasmania and Queensland passed Acts substantially in accordance with the terms of the resolution. Victoria and South Australia passed Acts on different lines. In New South Wales and Western Australia bills in accordance with the terms of the resolution were introduced but not passed (evidence, pp. 49, 270-271).

At the conference of Commonwealth and State Ministers held in May, 1929, it was agreed that the Commonwealth should draft a bill to be submitted to the governments of the States transferring to the Commonwealth Parliament full power to legislate with

"respect to aviation and matters incidental to aviation, and the State Governments undertook to consider whether they would submit the bill to their respective Parliaments at an early date."

The subjects of the Conventions agreed on by the International Labour Conferences at Geneva, and some of which were dealt with by the Parliament of Canada in the three Acts, The Minimum Wages Act, 1925, The Limitation of Hours of Work Act, 1925, and the Weekly Rest in Industrial Undertakings Act, 1925, which are later referred to in this Submission and which were referred to the Supreme Court of Canada and thence, by appeal, to the Privy Council, for opinion as to their constitutional validity, have from time to time been referred to the States by the Commonwealth Government on the assumption that to give effect to them by legislation was not within the powers of the Commonwealth Parliament. These conventions were before the Australian conference in 1927 and again in 1929 and again exemplify the matters with which such a Canadian conference could deal."

THE CHAIRMAN: It is one o'clock, and we will adjourn to 2.30 p.m.

(Page 3925 follows)

AFTERNOON SESSION

The Commission resumed at 2.30 p.m.

THE CHAIRMAN: You had just finished the seventh proposition. I would like to ask in reference to that why do you think any amendment to the Constitution is necessary for such a conference? There is no reason why such a conference should not be held by a voluntary agreement between the Dominion and the provinces.

HON. MR. MACQUARRIE: We merely suggest it might be desirable that it be in the Constitution. We are not pressing that idea but merely mention it as a matter for consideration.

THE CHAIRMAN: There are a great many of these extra constitutional conferences in operation in the United States, I believe. Have you had any occasion to consider their workings, or how they function? There is the Governors' Conference and several subsidiary conferences, I believe, not under the Constitution but by custom, - practice, - annual gatherings for the interchanging of information and so on. You have not had any occasion to study those?

HON. MR. MACQUARRIE: We have not had any occasion to study them in detail, my Lord, no. But we do not stress the amendment to the Constitution; the important thing from our standpoint is to have it arranged, whether merely as a matter of policy in the Constitution, is a matter of detail, and certainly there is the difficulty of perhaps having it too rigid if it goes into the Act as an amendment. On the other hand, it should be worked out in some way to give some degree of certainty it will be carried on from year to year and not to be abandoned, and that it shall be carried on at some fixed time. That is our idea in the main, that there would be some fixed time each year, and all

of the provinces would go as a matter of course, and have the opportunity of discussing matters with the Dominion government, without going in the nature ^{of} supplicants, or it be expected they are going to raid the federal treasury, or going to make complaints; but that there be at a fixed time a general discussion of any matters that are of concern to the Dominion and the various provinces.

THE CHAIRMAN: Has this ever been suggested at any of the interprovincial conferences? I mean has there been any discussion about it at any interprovincial conference?

HON. MR. MACQUARRIE: I am not in a position to answer that, my Lord, I will endeavour to get that information. I had the privilege of attending one interprovincial conference and I am not familiar enough with what had taken place at the other conferences. It was not, as I recall, discussed at the last one in 1935.

THE CHAIRMAN: What your government is concerned with is having such an annual conference at a stated period rather than any constitutional provision to that effect.

HON. MR. MACQUARRIE: Yes my Lord. What we had in mind principally was a recommendation from this Commission that such conferences be arranged for and held, whether they be arranged for through the Act is really a matter that is not of great importance, from our standpoint.

Going on with the eighth proposition, if it is agreeable,

"To concede to the transfer to the Parliament of the Dominion, subject to certain conditions including ample provision being made for the full protection of local and particular interests, exclusive jurisdiction over the matters of unemployment insurance, employment service, maximum hours of labour, weekly rest, and allied matters.

This Proposition is intended to refer to the foregoing subject matters as they were dealt with in The Employment and Social Insurance Act, The Limitation of Hours of Work Act and The Weekly Rest in Industrial Undertakings Act, being Chapters 38, 63, and 14, respectively, of the Statutes of Canada for 1935.

THE CHAIRMAN: I see you do not include the minimum wage. Is that left out deliberately?

HON. MR. MACQUARRIE: We have covered everything in a general way. The minimum wage is one that might call for special consideration and special attention, particularly from the standpoint of what the smaller industries would be able to stand in that regard. We group them all, and as I mention in the middle of the page under "Unemployment Insurance and Employment Service", and right before that "This proposition is intended to refer to the foregoing subject matters as they were dealt with in the Employment and Social Insurance Act, The Limitation of Hours of Work Act and The Weekly Rest in Industrial Undertakings Act," and so on.

THE CHAIRMAN: "And Allied Matters". I wondered whether "Allied Matters" covered the minimum wage or not.

HON. MR. MACQUARRIE: Our general position with regard to that is that would be a matter for detailed study at the further conferences that are bound to take place before definite amendments are agreed upon, and to endeavour in every reasonable way to secure protection for smaller industries that we think would be necessary in order to ensure that some of them would not be crowded out entirely.

"UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE

"The Employment and Social Insurance Act, after various recitals, including the recital that Canada was a signatory as part of the British Empire to the Treaty of Versailles, and including references to various articles of the Treaty and a recital that it is desirable to discharge the obligations thereunder to Canadian labour and for that purpose to provide for a national service and insurance against unemployment, proceeds in five Parts. The first Part establishes a Commission to administer the Act and to submit proposals to the Governor-in-Council for the assistance, by way of providing unemployment insurance and otherwise, of persons not within the application of the Act or not presently entitled to its benefits. Part II provides for the organization of an employment service for the Dominion of Canada, including the establishment of regional employment offices, the gathering of employment statistics, and for assisting by loans the movement of unemployed persons to places where work has been obtained for them. Part III provides that all persons sixteen years of age or over engaged in specified employments are to be insured against unemployment; the funds to be obtained by three way contributions from employer, employee and the Dominion Government; and that unemployment benefits are to be paid to insured persons from the funds so constituted, under certain conditions of unemployment. Part IV provides for the assembling and dissemination by the Commission of information relating to group plans of providing collectively or cooperatively, by insurance or otherwise, for medical and dental services, health and accident insurance, and for the Commission to advise and report upon any such proposed plans. Part V is

"general and relates to such things as regulations and reports.

It is generally recognized that a system of unemployment insurance is necessary to the continued social security and well being of the workers of the Dominion of Canada, and it is believed that any such scheme to be effective must be national in character. Any system of unemployment insurance not national in character would tend to restrict the liberty of movement and employment of industrial workers within Canada and, by establishing self-contained provincial units, restrict, at times, labour adjustments that might take place were labour forces permitted to function throughout Canada as a single unit without restrictions as to Provinces. It is conceivable, too that under any other than a national scheme, the levies upon industry might so differ from one Province to another as to put the industries, or particular industries, in a particular Province at a disadvantage as compared with those of other Provinces. Upon the establishment of State schemes of unemployment insurance in some of the States of the United States of America a few years ago, it was the experience that in practice the workings of various of the schemes were seriously impaired by pressure brought upon the authorities administering the schemes by particular interests anxious that the products of industries within such States should not, by reason of the levies under the schemes, suffer in competition with products of industries of other States. Under a national scheme, on the other hand, the levies would be standardized, consideration at the same time being given the ability to pay, and it is assumed that care would be taken to avoid placing

"any industries at a relative disadvantage.

It may be pointed out that the Province of Nova Scotia does not stand to benefit from a scheme of unemployment insurance to the same extent as do others of the Provinces. In the first place, it is conceived that during the primary years at least, benefits from unemployment insurance will be confined almost wholly to the manufacturing industries and the following table indicates a comparison of the percentages of the value of the net production in the manufacturing industry to the total net production of each Province for the year 1934:

Prince Edward Island,	6.25
Nova Scotia,	22.27
New Brunswick,	28.96
Quebec,	49.49
Ontario,	48.17
Manitoba,	29.59
Saskatchewan,	8.49
Alberta,	11.34
British Columbia,	23.10
Canada,	39.18

To illustrate, the net production of the manufacturing industry in Prince Edward Island in 1934 was 6.25% of the total net production of that Province. The figures are from The Canada Year Book, 1937, page 220.

Coal mining, one of the major industries of this Province, does not lend itself to complete cessation of activity in slack periods, but because of the necessity of mine maintenance its operation in general tends to revert to fewer days work per week rather than to undergo entire suspension, and for this reason the workers in this industry are less liable to receive benefits from unemployment insurance than those

"in many other industries. In view, however, of the generally accepted need of unemployment insurance and the view already expressed that a scheme to be effective ought to be national, it is not felt that one Province ought to dwell too much upon the fact that it will not benefit by such a scheme in the same proportion as other Provinces, or for that reason to oppose provision being made for establishing a national scheme by transferring exclusive legislative jurisdiction over unemployment insurance to the Dominion Parliament. At the same time, the fact that the different Provinces stand to benefit in varying degrees should be taken into consideration and compensation made in other respects, and such a consideration would be a proper one for the Federal Grants Commission recommended to be established in an earlier Proposition to have in mind in determining the amounts of grants or subsidies.

The matter of employment service is closely related to the matter of unemployment insurance and should come under the same legislative jurisdiction.

MAXIMUM HOURS OF LABOUR AND WEEKLY REST.

The Limitation of Hours of Work Act was passed as Chapter 63 of the Statutes of Canada for 1935. After reciting the signing of the Treaty of Versailles and other circumstances leading up to the passing of the Act, it goes on to provide in effect and with qualifications (broadly speaking) that in certain specified industrial undertakings no person shall permit any person to work for more than eight hours in the day and forty-eight hours in the week.

The Weekly Rest in Industrial Undertakings Act is Chapter 14 of the Statutes of the same year. After"

"a similar recital it provides in effect and with qualifications (broadly speaking) that the whole of the staff employed in specified industrial undertakings shall be granted by the employer in every period of seven days a period of rest comprising at least twenty-four consecutive hours.

The matters of maximum hours of labour and weekly periods of rest, are so-closely allied to the matters of unemployment insurance and employment service, that it is conceded that with proper safeguards, but only with proper safeguards, exclusive legislative jurisdiction in these matters may be vested in the Dominion Parliament. It is recognized that standards in these matters ought to be established, and it is appreciated that such standards not only ought to be uniform in so far as is possible but ought to be uniform in their incidence in respect of cost upon the different sections and industries throughout Canada, having in consideration ability to pay. It is, therefore, submitted that the vesting of legislative jurisdiction over these matters in the Dominion Parliament ought to be upon the condition that ample provision is made for the full protection of local and particular interests and for safeguarding the rights of particular industries in particular sections of the country. Such safeguards, it is suggested, might be imposed by making obligatory under any scheme of regulation to be adopted, the establishment and maintenance of regional boards or by such other means as may be decided upon by agreement between the Provinces and the Dominion. It is recognized that there would be objections to provincial schemes to regulate these matters, of a nature similar to the objections against provincial schemes of unemployment"

"insurance. It is conceivable, for instance, that provincial schemes might tend to be impaired by pressure brought to bear upon local authorities administering such schemes to ameliorate regulations in order better to permit the products of such Province to compete with those of another Province, and that even where no deliberate attempt was made to do this, a local administration might be handicapped by the ever present fear of putting industries within that Province at a relative disadvantage by increasing the costs of production. It is, therefore, conceded that if proper safeguards can be imposed and maintained, Dominion regulation of these matters would be preferable to individual regulation by each of the Provinces.

THE PRESENT CONSTITUTIONAL SITUATION

The present situation in respect of legislative competence to deal with unemployment insurance, maximum hours of labour and weekly rest will now be indicated.

UNEMPLOYMENT INSURANCE

The constitutional situation in respect of insurance, including the more restricted field of unemployment insurance, may best be appreciated by considering very briefly four cases which were decided in the Privy Council between the years 1881 and 1937. The first of these cases is *Citizens Insurance Company of Canada vs. Parsons*, (1881) 7 Appeal Cases, page 96. The Statute there in issue and of which the constitutional validity was impeached was an Act of the Legislature of the Province of Ontario designed "to secure uniform conditions in policies of insurance." This Statute provided certain statutory conditions that were to be printed upon the policies and to have

"effect unless expressly varied by the parties. The statutory conditions covered such matters as the conditions of the liability of the insurer in cases of double insurance; and the conditions of the liability of the insurer resulting from loss while certain dangerous substances were on the premises insured. The decision of the Judicial Committee of the Privy Council was delivered by Sir Montague Smith, who said in effect that the Ontario Act related to the subject of property and civil rights within the Province under Section 92 (13) of the British North America Act and that it did not come within regulation of trade and commerce under Section 91 (2) of the Act, which heading would include political arrangements in regard to trade requiring the sanction of the Dominion Parliament, the regulation of trade in matters of inter-provincial concern, and perhaps the general regulation of trade affecting the whole Dominion but that it did not include power to regulate the contracts of a particular business or trade, such as the business of fire insurance in a single Province. The other grounds of the decision are not material to this discussion.

In 1916 in the case of Attorney General for Canada vs. Attorney General for Alberta, 1916 1 Appeal Cases, page 588, Sections 4 and 70 of the Insurance Act, 1910 (Canada) were considered by the Judicial Committee of the Privy Council. The former Section provided in effect that no person or company should carry on an insurance business in Canada without a license; the latter Section provided penalties for violations of Section 4 and other Sections. The Court was asked to decide whether these Sections were intra vires the Dominion Legislature and whether

Section 4 affected a foreign corporation doing business in only one Province. The decision of the Privy Council was delivered by Viscount Haldane, who said in effect that the authority given the Dominion Parliament under Section 91 (2) of The British North America Act does not extend to the regulation by licensing of a particular trade in which Canadians would otherwise be free to engage in the different Provinces; nor was such legislation supported by the general words at the beginning of Section 91 which authorized the Dominion Parliament to make laws for the peace, order and good government of Canada in relation to all matters not coming within the the classes of subjects by the Act assigned exclusively to the Legislatures of the Provinces; the rest of the decision is immaterial to this discussion.

In 1932, in the case, *In Re The Insurance Act of Canada*, 1932 Appeal Cases, page 41, the Privy Council was called upon to examine Sections 11, 12, 65, and 66 of the Insurance Act, being Chapter 101 of the Revised Statutes of Canada for 1927, and Sections 16, 20 and 21 of the Special War Revenue Act, being Chapter 179 of the Revised Statutes of Canada for 1927. Section 11 of the former Act provided in effect that no Canadian company, or alien, whether a naturalized person or a foreign corporation, should, except as provided in the Act, carry on the business of an insurer in Canada without a license, and Section 12 provided that a British company or British subject not resident in Canada should not, except as provided in the Act, migrate to Canada to carry on such a business unless under license. Section 75 and Section 66 prescribed penalties.

"The decision of the Privy Council was delivered by Viscount Dunedin, who referred to the words of Viscount Haldane in the case last referred to, to the effect that the Dominion has authority by properly framed legislation to require a foreign company to take out a license to operate even in one Province of Canada, but went on to say that "under the guise of legislation as to aliens they ', (the Sections of the Insurance Act under discussion, 'seek to intermeddle with the conduct of insurance business, a business which by the first branch of the 1916 case', (Attorney General for Canada vs. Attorney General for Alberta, 1916, 1 Appeal Cases, 582), 'has been declared to be exclusively subject to Provincial law', and that as regards British subjects, who could not be styled aliens, this was not properly framed law as to immigration but an attempt to saddle British immigrants with a different code as to the conduct of insurance business from the code which had been established to be the only valid code, that is the Provincial Code. As to the Sections of the taxing Statute which purported to tax insurers in Canada who insured with British or foreign companies or underwriters not licensed under the Insurance Act, or with extra-Dominion associations formed for exchanging mutual insurance contracts and not licensed under the Act, His Lordship said that it was insurance legislation under the guise of taxing legislation and therefore ultra vires the Dominion Parliament.

It would fully appear from the foregoing that the business of insurance, in the words of Viscount Dunedin, 'has been declared to be exclusively subject to Provincial law'.

The last case to be referred to is Attorney

"General, Canada, vs. Attorney General, Ontario, et al, Reference Re Employment and Social Insurance Act, 1935, 1937, 1 Dominion Law Reports, page 684, the decision of the Judicial Committee of the Privy Council being delivered by Lord Atkin. In this case the constitutional validity of The Employment and Social Insurance Act, being Chapter 33 of the Statutes of Canada for 1935, was considered.

Lord Atkin, after remarking that the substance of the Act was found in Part III, said that there could be no doubt that prima facie, provisions as to insurance of that kind, especially where they affected the contract of employment, fell within the class of property and civil rights in the Province; that as to the argument that on the ground of the special importance to Canada of unemployment insurance at the time and some time before the passing of the Act, the provisions were justified by the general words of Section 91 of the British North America Act, the same reply was applicable as in the Reference of the three labour Acts (The Minimum Wages Act, The Limitation of Hours of Work Act, The Weekly Rest in Industrial Undertakings Act) was made to the argument that those Acts could be so supported; and that moreover the present Act did not purport to deal with an emergency but its operation was intended to be permanent. As to the argument that it could be supported under Section 91 of the British North America Act, Classes 1 and 3, which relate to the public debt and property and the raising of money by any mode or system of taxation, he said that, assuming the Dominion to have properly collected a fund by taxation, it by no means

follows that any legislation which disposes of it is necessarily within Dominion competence since it may still be legislation in pith and substance affecting the classes of subjects enumerated in Section 92, and if so it would be ultra vires; and that in pith and substance, the Act under examination was an insurance Act affecting the civil rights of employers and employees in each Province and as such was ultra vires the Dominion Parliament."

THE CHAIRMAN: Just before passing from that, Mr. MacQuarrie, is there any reason why you limit your recommendation to unemployment insurance? Why not the whole question of insurance? That point was raised before us in the Briefs filed on behalf of the Life Insurance Association. Why do you limit your recommendation? Are you opposed to the Dominion having jurisdiction in relation to insurance, when the present Insurance Act has not been challenged, and the Dominion Department of Insurance is carrying on its operations, I should say, as effectively as ever, notwithstanding all these decisions; ; yet no one can be certain that the present Act may not be attacked some day. What is the view of your government on that matter. Should it be made clear the Dominion has jurisdiction to deal with insurance in the form in which it is now dealing with it?

HON. MR. MACQUARRIE: I might say, my Lord, the reason for not dealing with it in this particular place, we were dealing more with the social legislation in one group, and as to insurance generally there would be no objection from this province to that being transferred to the Dominion, and the Dominion authority over it being placed beyond any doubt or dispute.

I will continue with the brief;

MAXIMUM HOURS OF LABOUR AND WEEKLY REST

"Legislation purporting to deal with these matters comprised part of the labour legislation which was referred to the Supreme Court of Canada for an opinion upon its constitutional validity. The decision of the Supreme Court of Canada was appealed to the Imperial Privy Council. The decision of the Supreme Court of Canada may be found reported in 1936, 3 Dominion Law Reports, page 673, sub nom Reference Re Weekly Rest in Industrial Undertakings Act, Minimum Wages Act and Limitation of Hours of Work Act, and the decision of the Privy Council may be found reported in 1937, 1 Dominion Law Reports, page 673, sub nom Attorney General, Canada vs. Attorney General, Ontario, et al, Reference Re Weekly Rest in Industrial Undertakings Act, Minimum Wages Act and Limitation of Hours of Work Act.

In the Reference to the Supreme Court of Canada of this labour Legislation, these three Acts were dealt with together. In the Supreme Court of Canada they were held to be intra vires the Dominion Parliament by the Chief Justice, Mr. Justice Davis, and Mr. Justice Kerwin, but ultra vires by Mr. Justice Rinfret, Mr. Justice Cannon and Mr. Justice Grockett. On appeal to the Privy Council all three Statutes were held to be ultra vires the Dominion Parliament and the judgment of the Judicial Committee was delivered by Lord Atkin.

In argument before the Privy Council, it was sought to uphold the validity of the legislation by showing it to be treaty legislation in respect of which the Dominion Parliament derived competence from Section 132 of The British North America Act. It was sought to uphold it under the general words of Section 91 of that Act according to the principles

"which the Chief Justice of the Supreme Court of Canada considered had been laid down in the commonly called "Radio Case", which is reported sub nom Re Regulation and Control of Radio Communication, Attorney General, Quebec, vs. Attorney General, Canada, et al, 1932, 2 Dominion Law Reports, page 81. It was sought to uphold it otherwise under the general words of the said Section 91 as a matter that had ceased to be merely local or provincial and had become a matter of national concern, relying upon the words of Lord Watson already referred to in this Submission in the Proposition dealing with 'Marketing', and which are as follows:

'Their Lordships do not doubt that some matters, in their origin local and provincial, might attain such dimensions as to affect the body politic of the Dominion, and to justify the Canadian Parliament in passing laws for their regulation or abolition in the interest of the Dominion. But great caution must be observed in distinguishing between that which is local and provincial, and therefore within the jurisdiction of the provincial legislatures, and that which has ceased to be merely local or provincial and has become matter of national concern, in such sense as to bring it within the jurisdiction of the Parliament of Canada.'

The judgments of the Privy Council and of the Judges of the Supreme Court of Canada are of very great interest and importance and deserving of intensive study by all lawyers interested in this phase of constitutional law, by officers of the Dominion Government having to do with the execution of treaties or conventions between Canada and other countries, and by others. We are not, for the purposes of this

"discussion, interested in the fact that the respective conventions, in pursuance of which the Statutes were passed, were held not to be within the application of Section 132 of The British North America Act, nor with the refutation of the view of the Chief Justice of the Supreme Court of Canada, Sir Lyman P. Duff, which he had based upon the 'Radio Case' that 'The Jurisdiction of Parliament to enforce international obligations which are not strictly 'treaties' within Section 132' (of the British North America Act) 'is coordinate with the jurisdiction under this last named section.' Even if the legislation had been upheld under Section 132 or upon the authority of the 'Radio Case,' it would be absolutely unsatisfactory to have further legislation of this type dependent upon the existence of international conventions. We are to some degree interested in the fact that it was held that the subject matter had not reached that degree of importance and urgency from a Dominion-wide standpoint that might perhaps take it out of the Provincial field and place it in the Federal field, as had become the subject matter of the Statute construed in the case of Fort Frances Pulp and Paper Company vs. Manitoba Free Press Company, 1923, 3 Dominion Law Reports, page 629. What we are chiefly interested in, however, is the preliminary admission that the subject matters of the three Statutes are ordinarily within exclusive provincial jurisdiction. Witness the words of the Chief Justice of the Supreme Court of Canada at the bottom of page 674 of Volume 3 of the Dominion Law Reports for 1936:

'The immediate question put in the precise form is this: Is the statute which, by its preamble, recites the adoption of the draft convention by the General Conference of the Labour Organization and the ratifi-

"'cation of that convention by Canada, constitutionally effective, without the assent of the Provinces, to alter the law of these Provinces by bringing that law into conformity with the stipulations of the convention so ratified; the matter of those stipulations being, ex hypothesi, normally, (and saving certain specific fields of legislation with which we are not concerned) a subject matter of legislation within the exclusive competence of the respective provincial Legislatures under s. 92 of the B.N.A. Act?"

And witness the words of Lord Atkin on page 674 of Volume 1 of the Dominion Law Reports for the year 1937:

'It was admitted at the bar that each statute affects property and civil rights within each Province; and that it was for the Dominion to establish that nevertheless the statute was validly enacted under the legislative powers given to the Dominion Parliament by the B.N.A. Act, 1867.'

As has already been indicated the Judicial Committee of the Privy Council confirmed the view that the subject matters of these three Statutes were intra vires the legislative competence of the Provinces and ultra vires the legislative competence of the Dominion.

By way of recapitulation it may be said

- (a) that the matter of unemployment insurance, and the matters of maximum hours of labour and weekly rest, are within Provincial legislative competence and ultra vires the legislative competence of the Dominion Parliament;
- (b) That for the reasons given throughout this Proposition, this Province is willing, subject to adequate safeguards being determined, that these matters be transferred to the legislative competence of the Dominion Parliament;

(c) and that to effect this transfer, an amendment would have to be made accordingly to the British North America Act, 1867.

THE CHAIRMAN: Mr. MacQuarrie, you deal there with the interpretation which the Privy Council has placed upon the treaty-making power, and also the interpretation they have placed upon the Radio case, differing in that respect from Sir Lyman Duff, the Chief Justice of Canada. What is the view of your government as to the treaty-making power, as to whether the Act should or should not be amended in that respect?

We had strong representations made to us from various sources on that matter, and we would be glad to have the view of your government on it. If you are not prepared to give it today we would like to have it before we leave.

HON. MR. MACQUARRIE: I would prefer to give it before you leave, My Lord. What I would say at the moment would be very general and would indicate our willingness that that matter be considered, and at the same time to point out that in any consideration that would be given to it, necessary safeguards would have to be considered at the same time so as to prevent what might be an infringement upon the provincial powers and provincial jurisdiction.

THE CHAIRMAN: Would you kindly consider it from two different angles: First, assume that Section 132 in its official interpretation includes conventions made between governments, - assume that for the sake of argument. The effect of the decisions of the Privy Council is that in the case of a treaty negotiated and signed while Canada was a colony, Canada had full legislative power to implement that treaty even though it infringed on provincial subjects, but now that Canada has become completely self-governing and had equality of status she can no longer implement by legislation a treaty that infringes on provincial subjects.

Now, there might be an amendment, which would be limited so as to put Canada, in her new status, in the same position as Canada held under her old status, in relation to legislative power.

There is the further question which was raised before us; assume that Section 132 would not cover agreements between governments, such as the Radio convention was. As a matter of practice these agreements between governments are becoming much more common than the more formal document, the treaty. Would you also consider whether an amendment should be made so as to be broad enough to cover conventions as well as treaties.

These are the two points of view from which I might suggest you consider the matter.

HON. MR. MACQUARRIE: Yes, my Lord, we will be very glad to take up these matters.

(Page 3945 follows)

HON. MR. MACDONALD: Yes, my Lord, we would be very glad to take those matters up at a later sitting of the Commission.

HON. MR. MacQUARRIE: Going on with the Ninth Proposition.

Ninth Proposition

To concede to the vesting in the Parliament of the Dominion of exclusive and effective jurisdiction to impose succession and death duties and income tax if a mutually satisfactory arrangement to this effect can be reached between the Provinces and the Dominion.

Under Class 3 of Section 91 of the British North America Act, the Dominion Parliament has power to raise money by any mode or system of taxation, but it is likely that even under this broad power the Dominion, if it sought to levy succession or death duties in the manner in which they are levied in some of the Provinces, might run into constitutional obstacles in respects important to the efficient enforcement and collection of such taxes; for example, it is submitted that the Dominion Parliament could not make the payment of the death duty a condition precedent to the passing of the property upon the death of the deceased person, because this would be an encroachment upon the power given the Province to legislate exclusively in respect of property and civil rights within the Province under Class 13 of Section 92 of the British North America Act. Aside from this, the proposal, it will be noted, is not to enable the Dominion to enter this field of taxation upon an equal basis with the province, but for the Province to retire altogether from a field of taxation heretofore relied upon by all of the Provinces and exclusively occupied by them, in favour of the Dominion. It is appreciated that the recommendations that are being made for the transfer of responsibilities

and services to the Dominion Parliament together with the further grants or subsidies, that are being asked for by the Provinces in respect of their fiscal needs, will necessitate on the part of the Dominion new sources of taxation and the Province therefore offers to abandon this field in the Dominion's favour.

In the same manner and for the same reasons, it is proposed for the Province to withdraw entirely from the field of income tax in favour of the Dominion.

It has already been pointed out in this Part that in a number of respects these taxes could be administered more uniformly and perhaps more economically by the Dominion than they can be administered individually by the Provinces.

THE CHAIRMAN: Mr. MacQuarrie, would you be good enough to give us your reasons, or will it come under the Premier's statement later, why you think these taxes could be more efficiently and economically administered by the Dominion than by the Provinces?

HON. MR. MacQUARRIE: That comes, my Lord, to a large extent under the financial part of the brief and will be dealt with by the Premier.

That concludes part II, the Constitutional part of the brief, and part III, dealing with the financial part will be carried on by the Premier.

MR. STEWART: I may say, my Lord, arrangements have been made between the Attorney-General and myself that any questions I might have on the Constitutional part should remain over until the end of the brief.

THE CHAIRMAN: Thank you. Mr. Premier, will you proceed?

HON. MR. MACDONALD: Mr. Chairman and gentlemen, do you wish me to deal now with the reasons?

THE CHAIRMAN: Not unless you prefer. You take it up in any order you prefer, Mr. Premier.

HON. MR. MACDONALD: I should say on that point that the question of the collection of Succession Duties, death duties and the matter of the collection of income tax are so closely related we feel it could be done more efficiently by one authority. For instance, the Income Tax authorities, before a man dies at all, have a pretty fair idea as to his wealth and what his estate should be worth when he dies. Consequently it is our feeling they are better able to collect the proper amount of succession or death duties from that estate than we would be who have not access to the Dominion tax returns. That, in brief, is the position.

THE CHAIRMAN: It was suggested in one of the briefs before us that another factor in the situation was that it would avoid duplication of tax. In the Investment Dealers Association brief the question arose where two Provinces are taxing the same estate.

HON. MR. MACDONALD: I have no doubt that some gain could be made in that regard probably if the Dominion took over the collection of succession or death duties. They would carry on that work in very close conjunction with their income tax work. It is possible there would be some saving, but I should not think it would be a great saving in the matter of the numbers employed to collect either tax. I think the greatest benefit would come from the accuracy with which the Dominion authorities could gauge the value of a deceased's estate as compared with our ability to gauge it.

THE CHAIRMAN: I think that point was not raised from the standpoint of expense of collection but rather from the standpoint of the unfairness of it, of an estate being subjected to a double levy, where if the Dominion were imposing it the rate would be fixed at a uniform rate and the levy would therefore be uniform on all estates. I do not know whether you have considered that aspect of it, Mr.

Macdonald.

HON. MR. MACDONALD: Yes, I think that something is to be said for that point of view. I do not know that there is very much double taxation of estates for succession duty purposes in this country. There is a variation of course in rates as between one province and another and it might be desirable that the estate of any person dying in any part of Canada should bear the same burden of succession duties. I think that would be desirable.

COMMISSIONER SIROIS: It is a form of double taxation. Take for instance the case of a person domiciled in Quebec who leaves in his estate stock of Dominion Iron and Steel or Nova Scotia Steel. He pays in Quebec and he also pays in Nova Scotia. You have double taxation.

HON. MR. MACDONALD: Yes, I know that might happen, that the tax is based on a different principle. Quebec bases its succession duties on the domicile of the deceased, whereas we base them on the situs of the property passing. In Nova Scotia we make an allowance always of the duties paid in any other province in respect of that property passing. I think in some provinces however it is true that no such allowance is made and Quebec, unfortunately, may be one of those provinces.

THE CHAIRMAN: There is another question somewhat akin that was also raised before us and it may be dealt with in your brief, if so do not trouble to answer it now but take it up when you come to it. It was suggested to us by the Manufacturers Association and by some others that corporation taxes levied by nine or ten authorities, if they are doing business in all the provinces, with the multiplicity of returns required, it really became oppressive and that it would be much better if the tax were collected by one authority only, even though part of it might be distributed among the provinces. Have you given that

consideration?

HON. MR. MACDONALD: Well, yes, I would like perhaps to have an opportunity of thinking that suggestion over. I would agree with the general principle that in those matters there should be, so far as possible, uniform legislation throughout Canada, and perhaps uniform rates. Whether anything would be gained by having one central agency collect the taxes I am not so sure.

THE CHAIRMAN: I think it was pointed out to us, my brethren will correct me if I am in error, that in some cases it took a staff of several members constantly employed to make out the multitude of returns required by the different governments because the returns were not all of the same form, the tax was not on the same basis, different information was required by some governments from that required by others. The suggestion was that even if the same amount was raised still it could be raised at much less expense to the taxpayer if it was collected by one government, under one system of return. They were not objecting to the amount of the tax but they said the method was unnecessarily oppressive and with no gain to the public treasury.

HON. MR. MACDONALD: Yes, I understand the point made but I should not like to agree with that proposition without a little more reflection.

THE CHAIRMAN: Yes, take your time. I just wanted to raise the question so we would have the benefit of your view before we leave.

HON. MR. MACDONALD: Yes, I shall be glad to give you my view before you go.

THE CHAIRMAN: As Dr. Sirois draws to my attention, they suggested that if a common form were adopted for all, they might even make the tax return to each province. It is the multiplicity of forms they are required to make out

that causes the trouble.

HON. MR. MACDONALD: We would be very glad to agree to that, I think. In fact there is a committee now in connection with the uniform companies' law working on that very problem, seeking to secure uniformity of returns for corporations. The Deputy Provincial Secretary is a member of that committee. And that of course is desirable and there is no objection to it whatever.

THE CHAIRMAN: Thank you. Then, Mr. Macdonald, will you proceed with the Financial?

HON. MR. MACDONALD: I have to deal with certain matters relating to the financial relations between the Dominion of Canada and its provinces and it may perhaps be necessary to spend a few moments at the beginning in some sort of historical review of the events leading up to Confederation and of the financial arrangement which followed, upon the passing of the British North America Act. I have not read the introduction to this brief to the Commission, pages 1 to 6, but in that part of the brief some mention is made of the misgivings which were felt in this province for some years before Confederation was actually accomplished and the misgivings in increased measure which arose after 1867. I do not think there can be any question that a great many Nova Scotians in the years from 1860 to '67 particularly in the years 1864 to 1867, felt that unless the terms of union were very carefully drawn the result of Confederation might be injurious to this province and to its people. And there is abundant evidence of that in resolutions passed in the Nova Scotia Legislature as early as 1861, in public debates, newspaper articles and discussions generally. It is my opinion, the opinion of this Government, that the misgivings of the people of Nova Scotia were to a large extent justified by the course of subsequent events. Confederation was accomplished and became a fact

on the first of July, 1867, and in September of that year a provincial election was held in Nova Scotia and out of 38 seats in the local Legislature only 2, after that election, were represented by supporters of Confederation; and immediately the new House of Assembly addressed itself to the problem of securing the repeal of the British North America Act. They sent petitions and delegations to London with that object in mind. It is interesting to note what the burden of their complaints and fears were at that time. They pointed out, for example, in 1868, that the tariff had already been raised to a point considerably higher than that normal in this province, that the Dominion subsidies were an insufficient substitute for revenue which Nova Scotia had lost, that the interests of what they called the Canadas, that is Quebec and Ontario, and the Maritime Provinces were different and required different systems of trade regulations, largely because of the dependence of the Maritime Provinces on ship-building, navigation, commerce and fishing, industries whose prosperity depended in large measure on a policy of free trade.

The delegation which went to London failed in its mission but the Secretary of State at that time, the Duke of Buckingham and Chandos, wrote to the Governor-General of Canada intimating very definitely, I think, that the arrangements made in Confederation relative, as he said, to taxation, the regulation of trade and the fisheries should be relaxed or modified in so far as they prejudiced the peculiar interest of Nova Scotia and the Maritime Provinces. In spite of that dispatch from the Secretary of State, the Legislature of Nova Scotia reaffirmed its disapproval of the terms of Confederation and continued its agitation for repeal. They gathered some encouragement from the fact that a new administration held sway in London, but they were

disappointed when they found the new administration simply reaffirmed the stand taken in the previous year.

Following negotiations between public men in this province and public men at Ottawa an extra annual subsidy of \$82,000 in round figures was given to Nova Scotia. That was in the year 1869. The Legislature of this province accepted the sum, not as a settlement of what they regarded as the amount justly due to the province, but merely as a sum on account and they reserved expressly the right to demand further sums and they declared it was their duty as representing the people of this province to seek modifications and improvements in the British North America Act so as to make it less burdensome and injurious to the people of the province. I think it must now be regarded as extremely unfortunate that in the year 1869 the negotiations for "Better terms" as they are now called concluded with a mere revision of financial arrangements between the Dominion and the provinces. The fundamental matters, such as the regulation of trade, the effect of Confederation upon the commercial life of Nova Scotia and its effect upon the great basic industry of fishing, these were all overlooked. And perhaps worst of all from the point of view of this province was the impression which they allowed to be created at Ottawa that complaints from this province could always be mollified by money payments. I refer to that at this time because this particular basis of our relations with the Dominion will arise frequently in the course of the next few days.

The question will have to be considered, I suggest, by this Commission as to whether subsidies alone are a substitute for impaired economic conditions in a section of the country. Our view here is that subsidies to a provincial Government, while they make the financial position of that

Government easier, nevertheless leave untouched the fundamental question of the economic welfare of the people of the province. If that welfare were sufficiently great there would be little need for subsidies at all. The point that I wish to make in a word is this: It would be quite conceivable for a Government to balance its budget for a year or for a certain number of years, probably not indefinitely but for a certain number of years, and yet to have the people of that province in economic distress due to the operation of economic conditions over which they had no control. So we feel that subsidies alone, while they may be of some value to a Government do not really affect, except in an indirect way, the economic life of the people of the province, which after all is the matter that should occasion a Government the greatest concern.

THE CHAIRMAN: Mr. Premier, you will correct me if I am in error. Did not the Duncan Commission report on that proposition and express the view that the economic decline was due more to two causes, one the entire change in shipping from the wooden ship to the steamship, and the other the termination of the reciprocity treaty, rather than to Confederation? I think the contention that it was due to Confederation did not appear to be supported by the facts. I have rather the recollection of reading that somewhere in the Duncan report.

HON. MR. MACDONALD: The Duncan report did refer to the abrogation of the reciprocity/^{treaty} with the United States in 1854 and to the change in the method of water communication as factors undoubtedly. The Duncan Commission did not say that all the economic disability of Nova Scotia could be laid at the door of Confederation, that is true.

THE CHAIRMAN: But they did say there were disabilities which should be taken into account.

HON. MR. MACDONALD: There were great disabilities.

They make this statement on page 10:

"We feel that the historical narrative given to us took too little account of the gain to Maritime trade arising from the reciprocity arrangements of 1854-66, and the reactions of the American Civil War, and too little account of the changes that were bound to follow the abrogation of the Reciprocity Treaty which was practically coincident with Confederation. It took too little account also of the other factors that have been operating in commerce, industry and the general field of economics within the last sixty years."

And they go on to elaborate on that view which I think is a fair statement of the case that undoubtedly the abrogation of the reciprocity agreement with the United States and the change from sail to steam had an injurious effect upon the economic life of this province. But the Duncan Commission also went on to say that in the matter of freight rates, for example, the interests of the Maritime Provinces have been prejudiced. That is a matter which will be dealt with later on. But they omitted to deal with the effect of the tariff on Nova Scotia, which we submit was a very serious and grave omission. Subsequent commissions, or at least one subsequent commission, did deal with that question and make a finding to the effect that the policies of the Dominion Government, all Dominion governments, have had an injurious effect upon the economic life of this province.

THE CHAIRMAN: Did the Duncan Commission say anything about the trade policy at all?

HON. MR. MACDONALD: No, very little. They stated that it was a matter which should be referred to the Tariff Board, largely. There is a reference to that at a future point in the submission.

THE CHAIRMAN: We will come to it then, I won't trouble you now, Mr. Macdonald.

HON. MR. MACDONALD: On page 56, for instance, of the Duncan report they came to deal with the matter of Customs tariff on coal and steel and they make this statement:

"Several features of the Customs Tariff in its relation to coal were brought to our attention, both by the Government of Nova Scotia and by the operators of the coal mines. Those we feel ourselves precluded from dealing with, since they are a matter properly to be considered by the Tariff Advisory Board; but we may be permitted to say that we are impressed with the need for reconsideration of the Customs Tariff in its relation to coal, anthracite and coke, and we recommend that the Tariff Advisory Board should be asked to give immediate consideration to the subject."

And the same comment in effect was made with regard to the duty on steel.

That was, generally, the view which the Duncan Commission took on the tariff. They did not discuss, feeling that it was not within their competence, although the terms of reference were extremely wide, the question of the effect of the tariff on Nova Scotia.

THE CHAIRMAN: Thank you.

HON. MR. MACDONALD: Now, the original Federal Financial contribution to the Province of Nova Scotia was based on a subsidy of eighty cents per head, which amounted to, at that time, \$264,000, on an allowance for Government of 60% and on a debt allowance of, in round figures, \$52,000. The total amount which Nova Scotia received from Ottawa by way of subsidy allowance and allowance was \$324,000. Changes were of course made in that figure. The allowance for government was increased substantially in 1907 and the debt allowance was increased at various times. So that today

the total subsidy received by the Province of Nova Scotia is a subsidy of eighty cents per head, which brings in \$410,000, an allowance for Government of \$190,000, a debt allowance of \$52,000, and a special grant by virtue of the findings of the Duncan Commission and the White Commission of \$1,300,000; a total payment from the Dominion in the last two years of \$1,953,000 per year.

I said that it was a mistake from the point of view of this Province to have had the arrangements of 1869 conclude with a mere financial solace to the province of Nova Scotia but that condition existed for some sixty years. The first attempt to give consideration, other than financial consideration, to the relations between Nova Scotia and the Dominion came in the year 1926 when the Government of that year appointed the Duncan Commission. And that Commission, as you will see from the report, from the letter of the Prime Minister to the Commission, from the Order-in-council appointing them, was given the very widest power. They were urged to consider their work as a great national undertaking and to leave no stone unturned whatever to investigate the real grievances of the Maritime Provinces. As a result of the findings of that Commission some of the disabilities under which we had laboured were removed. Our financial position was improved substantially. The Maritime Freight Rates Act was passed which was of considerable benefit to shippers in the Maritime Provinces. But I must point out, as I have already pointed out, that the failure of that Commission to inquire into the effect of the Federal trade policies and various other matters affecting the economic welfare of Nova Scotia was a serious matter for this province. The whole field of Dominion-Provincial relations, financial, fiscal and trade, was not reviewed until the year 1934 when a commission was appointed by this

government to inquire and report upon the effect of the fiscal and trade policies of the Dominion of Canada upon the economic life of the Province, to inquire and report upon the adequacy of the then existing financial arrangements between the Dominion of Canada and the province in the light of the powers and obligations of the Dominion and the province respectively under the federal constitution and into any other matters affecting the economic welfare of Nova Scotia and its relation to the Dominion of Canada. That was the Jones Commission which sat in this Province from August until October of 1934, heard the evidence of more than two hundred witnesses, sat in some twenty different localities in Nova Scotia and finally wrote a report which I shall be glad to present to the Commission, together with the appendices thereto and together also with the submission made by this government through Mr. Norman McLeod Rogers now a member of the federal cabinet.

Following the Jones Commission, the White Commission sat at Ottawa to revise the claims of Nova Scotia with regard to financial assistance from the Dominion. They made a report in February or March of 1935, in which they recommended that the interim subsidy recommended by the Duncan Commission of \$875,000 to this province, should be replaced by a subsidy of \$1,300,000. They went on to say,

"In concluding our report we deem it advisable to say that in reaching our conclusions we have endeavoured not to be influenced by conditions in the Maritime Provinces due to the present world depression in which all the Provinces of Canada have shared, nor by a comparison of grants made for relief purposes by the Dominion to the several provinces, because such conditions are common to all and in some present more acute problems for temporary assistance than in others. We have dealt with the claims presented to us on the evidence of specific facts pertinent to the subject-matter of our inquiry and of long-continuing conditions peculiar to the Maritime Provinces and not common to the other members of Confederation."

While we accept the award of the Duncan Commission and the award of the White Commission as endeavouring to settle longstanding grievances and inequalities with respect to the subsidy arrangements between the provinces and the Dominion, we do not accept either finding as a final settlement between this province and the Dominion. We feel to-day as we felt three years ago when we appeared before the White Commission. We feel that the time has come, has indeed passed, for a complete review of the relations, not merely between the Dominion and this province,

but for a general review of the relations between the Dominion and all provinces. This should be done not merely with regard to subsidies or financial matters, but with regard to all matters which might affect that relationship.

I pass on from that brief review of the financial arrangements between this province and the Dominion from Confederation until the present time, to the discussion of what I regard as a most important point in our submission. This point is stressed in Chapter 2 of our Brief, pages 61 to 78. The point we wish to emphasize is that the fiscal need of the province has always been the dominant factor in the giving of grants or federal subsidies. We say this in spite of the fact that the federal parliament and federal commissions have apparently been unwilling to recognize that rule in express terms. It is our submission that the history of subsidy revision in this country, in every instance, offers support for our contention. For example, when the delegates met at Charlottetown, at Quebec, and at London, the decision was arrived at that customs and excise duties should come within the jurisdiction of the federal parliament. The provinces were then asked to calculate how much they would need from the federal treasury to replace those taxes. So far as Nova Scotia was concerned the first estimate arrived at, for purely local objects, was approximately \$664,000. Later on that estimate was revised by the Nova Scotian delegates who cut down the amount to \$371,000, a reduction of more than 40 per cent. I do not think there is any doubt whatever but that Sir Alexander Galt or Alexander Galt as he then was, at once realized it would be to the advantage of the federal government to accept the Nova

Scotian estimate as a basis upon which to calculate the federal subsidy. He at once said, "I shall take that as a basis." What purely local revenues has the province which could be made available for the provincial treasury?" The delegates from Nova Scotia replied, as most of the provinces had replied, that they had nothing but Crown Lands and minerals, the annual revenue from which was calculated at \$107,000. Our province needed \$271,000, it could raise \$107,000 from local revenues, so that \$264,000 was left to be provided as a subsidy by the federal government. The population of Nova Scotia was approximately 330,000 which worked out to about eighty cents per head. This eighty cents per head was fixed as the subsidy to be awarded to all the provinces in Canada. I say that a mistake was made at that time from the point of view of Nova Scotia in scaling down the estimate so low that eighty cents per head became the basis. All during this time there was before these people the idea of fiscal needs; they said to the province, "How much do you need to carry on your affairs in a normal manner?" The amount necessary was guaranteed to the province in 1869, the year of the so-called, "Better terms for Nova Scotia".

The Canadian Minister of Finance, John Rose, afterwards

Sir John Rose, reported in that year that the local sources of revenue possessed by Nova Scotia were inadequate to carry on the services devolving on the province. This reference is to be found at the top of page 62 in our submission. At that time Sir John Rose must have had in mind the principle of fiscal need. He considered what I am suggesting we have to consider at this time. What are the local sources of revenue open to the province, and are they adequate to carry on the services devolving on the

province or more accurately still, the services devolving upon a community such as Nova Scotia in a Dominion such as Canada . The fiscal need, in 1869, I suggest was similar. Then, on page 62 of our submission will be found some reference to the fact that on four separate occasions, in 1873, 1879, 1882, and 1885 Manitoba's subsidies were increased, obviously because of fiscal need. It is true that on every occasion the increased subsidy was put on some other base. There was an attempt made to create the impression that they were carrying out some rule of uniformity of treatment. For instance, in the case of Manitoba, they said on one occasion the population is only 17,000 or some figure of that sort, but we will take it to be 50,000 in order to give them a greater subsidy. There is not the slightest doubt that they considered the fiscal need of that province. They decided how much money the province would need and then explored every possible way of finding some other excuse rather than the principle of fiscal need.

In 1907, there was a general revision of the subsidies of all provinces. At this time Sir Wilfrid Laurier was the Prime Minister of Canada. At the bottom of page 62 of our submission will be found an extract from one of his speeches delivered at that time. It is quite clear from this, I think, that fiscal need was the real basis upon which subsidies were to be paid. There is an even stronger statement, not printed in this Brief, from the lips of the Minister of Finance of that year, The Hon. W. S. Fielding. His remarks are reported in Hansard on the 25th of March, 1907, at page 5322-23. He said, at that time, "The provinces existed before the Dominion. The provinces had to be brought together in order that

the Dominion might be formed. The provinces had a right to determine the terms and conditions upon which the Dominion should be created. He went on to say, in essence, that the provinces were asked to become parts of a great Dominion and they had the right to stipulate the terms and conditions upon which they would become a part of the Dominion. They determined that they must received out of the federal treasury a proper proportion of those customs and excise duties which they were called upon to relinquish. The principle of avoiding direct taxation, of raising money not only for the purposes of the Dominion but for the purpose of the provinces as well by indirect taxation, was recognized by the provinces from the beginning, had to be recognized from the beginning, one is justified in saying: Otherwise the provinces would not have not come together.....it is not reasonable to suppose as has been suggested in the discussion to-day, that the provinces entered Confederation with the expectation they should be called upon to resort to direct taxation, in a general form, for the purpose of maintaining their provincial governments and provincial legislatures. Sir George Foster said, on the same page;

"Unless compromise had been resorted to and the smaller provinces had been provided for so as to relieve them from the necessity of facing immediate and even approximate taxation, we would to-day, be a string of disunited provinces without Confederation

There is little doubt from the reports of Sir John Rose and others of his time that the idea of direct taxation was not contemplated by the provinces. They felt that they could raise enough from their Crown lands and mineral reserves without resorting to direct taxation and that the remaining amount should be provided by the Dominion since those customs and excise revenues had been lost to the province.

THE CHAIRMAN: Was it not made clear in some of the addresses, either in the House or Legislature or on the platform about that time, that while the subsidy was fixed at what they estimated the provinces needs were, if there was a greater need it would be necessary to resort to direct taxation? My recollection is that it was so stated.

COMMISSIONER LAPOE: In Galt's speech at Sherbrooke, I think you will find reference by him to the fact that as the provinces would have very limited services, they would be able to secure enough revenue. However, I think he clearly indicated the possibility of resorting to direct taxation, that is my recollection.

THE CHAIRMAN: If we come to it later in your brief, we need not touch it now.

HON. MR. MACDONALD: I am not sure that we come back to this point. I have read Galt's speech several times, but I do not remember the portion to which you refer. I will read his speech over and indicate any portion which I find dealing with direct taxation. He says:

"If they increase their expenses in proportion to the growth of the population, they would be obliged to resort to direct taxation."

This is the crux of the situation.

"If they increase their expenses," they would be obliged to resort to direct taxation. He thought that they might trust the people themselves to keep a sharp watch over the local governments to see that they did not resort to direct taxation. After this, there were shouts of Hear, Hear and Cheers. This speech was delivered, of course, in Sherbrooke, in the province of Quebec. Such was the statement by Galt, and I think it is clear from that that he did not contemplate direct taxation.

THE CHAIRMAN: He did not contemplate the provinces would resort to it, but if they did increase their expenses, their only resort would be to direct taxation.

HON. MR. MACDONALD: But he apparently thought it would not be necessary to resort to that, because he said "The people would attend to that matter"; the people would not like it.

THE CHAIRMAN: Apparently they had greater confidence in people then, than they have now.

HON. MR. MACDONALD: However, that is the argument with regard to direct taxation. We have passed by that stage now, in the province--I suppose every province recognizes that we have resorted to direct taxes. I referred to Galt and Rose merely to indicate the inducements, if

I might call them by that name, which were held out to the people at the time of Confederation.

At the top of page 63 of the submission, there is a reference made to the Duncan Commission. I think the Duncan Commission recognized that fiscal need is a proper matter for consideration in determining subsidies. The report of this commission referred, for instance, to the present state of grave necessity in the Maritime Provinces. It also recommends that certain increases be made in the amount of the subsidy. The report states:

"These payments, also, will enable the provinces to undertake the more extensive programme in relation to agriculture, colonization, and other spheres of administration, which they represented to us, they were precluded from undertaking now because of the inadequacy of their assistance from the Dominion government."

I believe that recommendation is based on the principle of fiscal need. Then, the White Commission which sat following the Duncan Commission, sat for the purpose of making a definite settlement of subsidy matters between the Dominion and Maritime Provinces. The findings of the White Commission are quoted in our Brief on page 66. The White Commission starts out by recognizing that fiscal need is, in fact, the basis for most of the revision of subsidies since Confederation. I think that is an important recognition because it is the contention which we put forward at this time. We feel that fiscal need has been, and should be, the dominant factor in determining the amount of the subsidy.

THE CHAIRMAN: On what page is that?

HON. MR. MACDONALD: Page 65, at the very top of the page. The quotation has reference to this theory of fiscal need as a compelling ground for increased subsidies from the Dominion treasury. It must be admitted as a matter of fact, that financial necessity has lain at the basis of most, if not all, of the revisions and special grants and subsidies to provinces since Confederation. It is a fact that they recognize fiscal needs, but they go on to raise some objections to it. The majority report of that Commission, the report of Sir. Thomas White--the Chief Justice of Prince Edward Island who was a member of that Commission disagreed strongly and wrote a minority report. The majority report said it would be a mistake to adopt a general policy for financial arrangements between the Dominion and the provinces based upon the principle of fiscal need. They said that each provincial government was supreme within its own jurisdiction and not subject to any supervision by the Dominion Parliament so far as its financial affairs were concerned. They felt that if each province had a right to go to the Dominion treasury and demand, as a right, almost any sum necessary to meet a deficit, then the results would be disastrous to every sound principle of government. There must be responsibility hand in hand with the power to spend. I believe that the most of those views expressed by the majority report of the White commission are theoretically correct. The objections which they raised as to the propriety of fiscal need are not at all insuperable, their objections are not unassailable. The first answer to their objections is that we have come through seventy years of Confederation by invoking the principle of fiscal need. Secondly, even if there are theoretical objections

to the principle, and even if the granting authority should also be the spending authority, it is equally true that financial relations, particularly in a federation, cannot always be reduced to rigidly and logically correct principles. Thirdly, the test of fiscal need has been applied, I think, with very considerable success in Australia. This is the one federation in the world most suited for comparison with Canada. There is a reference made to this on page 68 of our submission. For instance, dealing with the question that extravagances will be encouraged if a principle such as fiscal need is adopted. The Grants Commission in its report which was printed in 1956 states that the application of such a principle makes extravagance possible, but the same possibility is open in a unitary government. The safety in all constitutions lies in a due dependence of those who administer them on the people. This is the answer to those who say that the Maritime Provinces--it must be admitted that the Maritime provinces, in the matter of subsidies, have shared fairly well in the days gone by. To those who say that the grants and subsidies on the principle of fiscal need tend towards extravagance, we point out that the Maritime Provinces have conducted their affairs in all types of government for the last seventy years with frugality and care. This statement will be supported by the findings of the Duncan commission, the Jones commission and the White commission, as well as every other independent body which has considered the financial affairs and the administration of this province. Finally, I should say that the principle of fiscal need has been recognized in the matter of relief and old age pensions. Upon this point, I should like to refer the Commission to pages 74 to 78 of our submission.

In 1930, the Dominion government in the second session of that year felt that some special assistance was needed in certain parts of the Dominion and so the Unemployment Relief Act was passed. The preamble to this Act stated:

"Whereas unemployment which is primarily a municipal financial responsibility, has become so general throughout Canada as to become a matter of national concern, and whereas it is desirable that assistance should be rendered;" and so on.

I suggest that this is evidence of that fact that the Dominion considered, properly considered, the fiscal needs of certain provinces and municipalities which would have to be met by increased grants for relief purposes.

THE CHAIRMAN: Of course, wouldn't relief be an exceptional matter in this respect. Relief would have to be provided where the majority of unemployed were residing or where the burden was heaviest. Wouldn't that follow as a logical result; if the Dominion were going to help any provinces or municipalities, the help would have to be greater where the majority of the unemployed happened to reside, whether it was in a province which was financially responsible or whether the government was extremely hard up.

HON. MR. MACDONALD: Undoubtedly the burden would be heaviest where the greatest number of unemployed happened to reside, but isn't that simply another way of saying where there was fiscal need?

THE CHAIRMAN: My only point was this; it hardly seemed to me that it necessarily supported your argument in favour of fiscal need as a basis. It is clear that the number of unemployed must determine the basis of relief.

This seems to be a natural and logical conclusion. It does not appear to wholly support your argument that fiscal needs should be a basis for general provincial-Dominion relationship.

HON. MR. MACDONALD: I am applying, a particular instance in support of a general argument. However, there is no doubt in the world that this is the principle which the province follows in relief to municipalities. We have struck town after town in this province off relief when we felt that they were financially able to carry the load themselves. In all other places we are continuing grants in relief to municipalities. We have, ourselves, invoked this principle again and again in dealing with our subsidiary bodies and the results have been satisfactory. We have reduced the number of relief very considerably.

THE CHAIRMAN:: I do not know that it is an answer to your general argument.

HON. MR. MACDONALD: No, it is an illustration, perhaps, using one particular instance which I am endeavouring to apply to the whole case. It is now four thirty and I do not know whether you wish to adjourn?

THE CHAIRMAN: Oh yes, we will adjourn until 10.30 tomorrow morning. It has been so interesting that I did not notice the time passing.

(The Commission adjourned at 4.30 p.m., until 10.30 a.m., Friday, February 4, 1938.)

ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

REPORT OF HEARINGS

REPORTERS:

George Thompson
John Robertson
David Torry



HALIFAX, NOVA SCOTIA, FEBRUARY 4, 1938

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ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

 HALIFAX, NOVA SCOTIA, FEBRUARY 4, 1938

The Royal Commission appointed to re-examine the economic and financial basis of Confederation and the distribution of legislative powers in the light of the economic and social developments of the last seventy years, met at Province House, Halifax, Nova Scotia, on Friday, February 4, 1938, at 10.30 a.m.

PRESENT:

HON. CHIEF JUSTICE NEWTON W. ROWELL....CHAIRMAN

DR. JOSEPH SIROIS

JOHN W. DAFOE, Esq.

DR. ROBERT ALEXANDER MacILLY

PROFESSOR HENRY FORBES ANGUS

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Dr. H. F. Munro, Esq.

Mr. Arthur Barnstead

 Premier
 Superintendent of Education
 Deputy Provincial Secretary

Province House,
Halifax, Nova Scotia,
February 4, 1938.

MORNING SESSION

The Commission met at 10.30 a.m.

HON. MR. MACDONALD: Mr. Chairman and Gentlemen:

When we rose yesterday afternoon, I think I was endeavouring to make the point that the federal government in its treatment of the problem of unemployment, had recognized the principle of fiscal need. Then, I think, Mr. Chairman, you raised the question of whether that illustration was apt to the point which I was endeavouring to make. What I was attempting to say, and this argument runs throughout the whole submission of the province of Nova Scotia, was that fiscal need has been recognized in the relationship between the federal government and the provinces. The treatment of the provinces by the federal government, in the matter of relief payments, was an illustration of that point. For instance, at the bottom of page 74 of our Brief, there is a quotation from a speech by the Prime Minister of the Dominion, Mr. Bennett. He speaks of the assistance given to the provinces to aid them in the discharge of their constitutional obligations. Later on, he says:

"The whole basis of our assistance to the provinces for unemployment and farm relief is founded upon the belief that the governments of the western provinces would discharge their constitutional obligations, and that the Dominion, in the national interest, should support and supplement the work of the provinces in the discharge of their duty."

I think that bears out the illustration which I have been attempting to make. Mr. Bennett goes on to say:

"Now I ask the chamber and particularly the honourable members opposite, if they have any complaint to make with regard to the manner in which we have met those responsibilities. We found every one of the four western provinces, for reasons which I shall not discuss, unable to secure money with which to discharge their obligations in New York. Were we to let those provinces default, or were we to lend them the necessary money with which to meet their obligations? Is there any honourable member, who will stand up in his place and say: 'You should let them default.' That is the problem which confronted us—default or loan."

I suggest that there was need in those western provinces, in the opinion of the government, of that day. The government was aware of the existence of that need, so the Dominion supplemented the provincial revenues in order that this need might be met.

I would refer the Commission next, to page 76 of our submission. The second paragraph on that page deals with the matter of conditional subsidies. Examples of conditional subsidies would be those for highway construction, technical education, agricultural education, and old age pensions. The granting of these subsidies is a recognition on the part of the federal government of their interest in the proper performance of provincial functions, as well as a recognition of the needs of the provinces. In the beginning these subsidies were given, many of them at any rate, as a matter of course, and not of right. They were given for a specific purpose and so had predetermined conditions. The inference is clear, I think, that the Dominion considered it in the interest

of the nation as a whole that these functions should be preformed. The provinces, themselves, were financially unable to preform these functions, so the Dominion had to give assistance to the provinces or else these functions would be undischarged.

THE CHAIRMAN: Mr. Macdonald, in the case of old age pensions, what is the basis on which the grants were made to the provinces? Was the fiscal need of the different provinces taken into consideration, or was it the number of those who fell within that class entitled to pensions? The Dominion gave a ~~certain~~ percentage of the amount necessary, and this percentage depended on the number of those who fell within the class entitled to the benefit of pensions.

MR. MACDONALD: Yes, Mr. Chairman.

THE CHAIRMAN: It was not the fiscal need of a particular province as compared with any other province, as I understand it?

HON. MR. MACDONALD: It was not the fiscal need of any particular province as compared with some other province which determined or now determines the amount of money paid by the Federal government, in the matter of old age pensions grants. On the other hand, the Dominion has insisted from the beginning, that the primary responsibility, constitutionally, for old age pensions rests upon the province. Therefore, I think it must be assumed that if the province was in a position to discharge this obligation to the aged and needy people out of provincial revenues, the Dominion would not have given any aid to the province. The fact that they have given aid is recognition that, although this is a provincial

duty, the provinces were unable to discharge that duty out of their own resources.

THE CHAIRMAN: No doubt, that is correct. It is a recognition, as you say, of the fact or what is assumed to be a fact, that none of the provinces were able to provide these old age pensions unaided. The Dominion contributes a certain percentage of the amount, increased now up to seventy-five per cent. Does this same principle apply to the other Dominion subventions, or conditional subsidies referred to in this section of the Brief?

HON. MR. MACDONALD: Undoubtedly, take, for instance, the matter of technical education and agricultural education. This province received for some years grants for both of these services. I do not think that the Dominion ever felt it was a Dominion responsibility, constitutionally, to educate the people of this province or any other province in technical or agricultural subjects. However, it felt that the national interest would be served if these types of education were made available. In order that they might be made available, the Dominion made grants for a term of years to assist the province. I would assume, if Nova Scotia had been able to show a surplus every year in its budget and had been financially able to carry on a system of technical and agricultural education, the Dominion would not have given this province anything.

THE CHAIRMAN: Don't you think that a grant towards technical education, using your illustration, --as I recall it, these grants were made shortly after the war, to encourage the development of technical education in Canada. The Dominion deemed it to be in the interest of trade and

industry throughout the country to develop technical education. They then granted the provinces the conditional subsidy for the development of a system of technical education.

HON. MR. MACDONALD: Quite true, Mr. Chairman, but in this province, we have had a system of technical education for thirty years. We began it out of our own funds, and carried it on out of our own funds, until about 1919. I believe that the grants for technical education were made for the first time, about that year. I believe a commission was appointed just before the outbreak of the war to look into the matter of technical education, but I do not believe the recommendations of that commission appeared much before 1919. This illustrates the point I am making. We assumed that the matter of technical education was a proper function for this province to perform about thirty years ago. At that time, we established technical educational centres in various parts of the province, notably in the coal mining regions, where night schools were established. In other centres, technical instruction was given at night, in such subjects as automobile repairing, domestic science, sewing, and such things. This is a proper function for provincial governments, but the Dominion government apparently felt that the time had come when the provincial governments would find it difficult with the large number of returned soldiers in the country, some of these soldiers having no trade, to carry on technical education. Therefore, the Dominion supplemented provincial revenues. I should say, if all provinces in 1919 had been in a sound financial condition, showing surpluses, the Dominion would not

have made this grant.

THE CHAIRMAN: Undoubtedly, at that time, the Dominion was exceptionally anxious to see the development of technical education. In the distribution of that grant to the different provinces, the element of fiscal need, as between the provinces, did not enter.

HON. MR. MACDONALD: As between one province and another, no. Of course, I think it fair to say, that the federal government has to be practical in these matters. Even if they did find Nova Scotia in need, and Ontario not in need, it would be very difficult to make a grant to Nova Scotia for technical education and leave Ontario out.

THE CHAIRMAN: This brings us to the main part of your argument. In your suggestions concerning fiscal need, is it fiscal need as between the Dominion and the province or fiscal need as between the provinces? In other words, if one province has a greater fiscal need than another, is the subsidy to be based on the respective fiscal needs of the two provinces or is it a general question as between the provinces and the Dominion? Wherever services are required of the provinces in the exercise of their existing jurisdiction, which they are not able to provide, you state the Dominion should supplement their revenues by increasing their subsidies. I think you will see there is quite a clear distinction between the two points of view, and I would like to get the benefit of your opinion on this question.

HON. MR. MACDONALD: I do not know that you can separate the two matters. For instance, in considering what our fiscal need is here, we would have to look at conditions in other provinces and at the standard of living

in these provinces. We would have to consider the standard of social services, government salaries, and all allied matters. We would have to consider how we compared with the rest of Canada in all of these matters. If we did not compare favourably, this would be a condition which should not be allowed to continue in this province. For example, if we are not able to pay mothers' allowances and old age pensions in this province, we would feel we were putting ourselves at a disadvantage in comparison with the provinces which could afford to do these things. It is quite conceivable that people would move away from Nova Scotia--I am dealing with this matter later on, but I shall just mention that point now. It is conceivable that people would move away from Nova Scotia to Ontario or British Columbia where these services are provided, because these people would say, "It is a better part of the country in which to live." In the last mentioned provinces, provision would be made for the widow who had children to educate as well as for the aged and needy people, while in Nova Scotia, no such provision would be made and the people would leave our province. We, in this province, in considering our fiscal need would have to consider conditions in other parts of Canada. If we could not approximate these conditions, then I think, the province of Nova Scotia would say to the Dominion government, "You should do something for us in order that we might raise our standards."

THE CHAIRMAN: Your contention is, that fiscal need applies to both of those cases which I have mentioned. It applies as between the provinces and applies between the Dominion and the provinces.

HON. MR. MACDONALD: Yes, but of course, we could not go to British Columbia and say that we were in fiscal need in Nova Scotia, so the people of British Columbia must give us some money. . However, we could institute a comparison with that province, and reveal the results of such a comparison to the Dominion government.

THE CHAIRMAN: I am inclined to think, although we have not yet received the Brief for British Columbia, that it will be suggested that the people of British Columbia are entitled to better terms. It will probably be suggested that you have had your better terms under the Duncan and White Commissions.

HON. MR. MACDONALD: Well, I think I could present quite an argument on the figures in the case, so far as British Columbia is concerned. As to the fiscal need of British Columbia, I am not able to speak. I think, British Columbia, has not, perhaps, received its full share of subsidies in comparison with subsidies received by some other provinces in the Dominion.

THE CHAIRMAN: However, these illustrations which you have given the Commission may support your contention, that as between the Dominion and the provinces, there is recognition by the Dominion that the provinces need more revenue. You say that it is, therefore, an illustration of fiscal need. It is not an illustration of fiscal need as between the different provinces because the Dominion, in granting these conditional subsidies, did not take into consideration the particular fiscal need of any province. They were granted by the Dominion on a basis which was deemed to be fair to all the provinces, having regard to population and such matters.

HON. MR. MACDONALD: Well, as I say, I suppose governments, whether at Ottawa or elsewhere, have to look at things in a practical manner.

THE CHAIRMAN: I am afraid we have to do that, too.

COMMISSIONER MacKAY: Would it be fair, Mr. Macdonald, to say that the revisions of subsidies made from time to time, have taken into account the particular fiscal needs of a province?

HON. MR. MACDONALD: I think in every case they have. They may have called it by some other name, as I pointed out yesterday, In Manitoba, as Mr. Dafoe will recall, the Dominion government gave subsidies to Manitoba on all sorts of fictional bases. They would estimate the population of Manitoba as so much, when in reality the population would be considerably less. They estimated it at the high figure merely to give Manitoba more money because they felt that Manitoba needed the money at that time.

COMMISSIONER DAFOE: I believe the incident to which you refer is applicable to British Columbia, not Manitoba.

HON. MR. MACDONALD: I think that is right. They estimated the population at 50,000, when in reality it was 17,000. The government did this solely for the purpose of giving British Columbia more money. Instead of saying that the arrangements had been worked out on the basis of fiscal need, as they do now in Australia, it was put on these different fictional bases.

THE CHAIRMAN: Of course, these provinces were in the early stage of development and their needs would be greater than in the more developed provinces.

HON. MR. MACDONALD: Oh yes, there is no doubt of that.

THE CHAIRMAN: In order to avoid what I suppose they considered would be a very dangerous precedent, that of using fiscal need as a basis, the government adopted these fictions as to population.

HON. MR. MACDONALD: Oh, quite so.

COMMISSIONER DAFOE: It was claimed that they were creating conditions of equality. They did not want to recognize fiscal need, evidently feeling that it was dangerous ground upon which to tread.

HON. MR. MACDONALD: I must confess that up until the present, most commissions and federal governments seem to have steered away from the words, "fiscal need". However, I suggest that in all cases it has been a real factor.

THE CHAIRMAN: Take the technical education grant, as an illustration; in the province of Manitoba, they have not been able to take advantage of the Dominion conditional subsidy because they could not raise the fifty per cent which they were required to provide. This was one of the conditions of the Dominion grant, therefore, the grant is unused.

HON. MR. MACDONALD: Since 1919?

THE CHAIRMAN: I do not know whether it is since 1919 or not. Representations were made that the Dominion conditional subsidy was unused. I do not remember the dates, but they pointed out this fact and one of the contentions raised was that it should not be dependent upon contribution by the province.

HON. MR. MACDONALD: If Manitoba was in that position, I should say, logically, the Dominion should have given Manitoba more money.

THE CHAIRMAN: I am only pointing this out to enable

us to arrive at a standard for dealing with grants under the heading of fiscal need. They have granted these subsidies to the provinces on what was assumed to be a basis of equality, I do not recall the exact basis of distribution, but it had regard to population and other incidents. I would like to get the benefit of your view on these different questions. It is important in the light of the recommendations we must make to keep the distinction quite clear between the basis of the subsidy on the one hand, and the question of whether the provinces could provide for their constitutional responsibilities out of their present financial income. We are expressly required to report whether they can do this or whether there should be a readjustment whereby they would be relieved of some of the services which would be taken over by the Dominion or whether there should be an increase in the Dominion subventions by reason of the provinces inability to discharge their present constitutional functions. It is quite important to distinguish between whether the federal subsidy should be determined on the principle set out in the British North America Act, or whether it should be on the basis of fiscal need. My only object in drawing your attention to this is that we would like to keep these two points clear in our minds when we apply your arguments to the different points as they arise.

HON. MR. MACDONALD: Well, I should say, Mr. Chairman, if you should find certain provinces in this Dominion able to carry on the normal functions which are the duties of provincial governments without any subsidy from the Dominion, then it should be said that that province requires no subsidy. So far as this province is concerned

I should say now, if we had a return of prosperity and we were assured of permanently increased revenues, I think it would be my duty to tell the federal government that we did not need any subsidy in Nova Scotia.

THE CHAIRMAN: Do you think, as a public man, Mr. MacDonald, there is any prospect of a report being adopted and approved which applied that principle in the manner which you have just related, that the subsidy should be cut off in one province and kept in another. I mean, we must look at the practical aspects of this problem as well as the theoretical.

HON. MR. MACDONALD: All I can say to that, is, that I am glad I do not have to settle the question. Suppose, for instance, the Dominion government had never taken over customs and excise revenues, but had left that valuable source of revenue with the provinces, would the Dominion have given any subsidy at all to the provinces?

COMMISSIONER DAFOE: The Dominion government would not have any money with which to give a subsidy, then.

HON. MR. MACDONALD: The government would have had very little to give because customs and excise taxes were a great source of revenue at that time. Subsidies had to be given because the provinces could not get along without them. If the day does come when provinces can get along without subsidies, they should be withdrawn. I do not say that the day is ever going to come, but if it does come, that would be a sound view to take.

THE CHAIRMAN: I presume you have read Professor Maxwell's book on subsidies?

HON. MR. MACDONALD: I have seen the book.

THE CHAIRMAN: His argument is that the whole system of provincial subsidies is unsound and should be abolished.

He suggests, as I recall it, that the Dominion should take over provincial debts on a fair basis and no longer pay subsidies. I gather from your observations that you do not agree with these conclusions?

HON. MR. MACDONALD: Well, in a general way, no. I think we have contracted debts and we should pay those debts. I recall the arguments of Professor Maxwell, but I do not agree with that system. I think it would be a mistake for anyone to lay down a general principle in a matter of this kind. Except in the very gravest cases, it is my belief that it would be a mistake to create the impression in any government's or individual's mind, that that government's or individual's debts will be taken care of by somebody else. I should oppose, in the interests of this province, the view that the federal government should take over our debts.

COMMISSIONER DAFOE: What if it was taken over on the basis of capitalized subsidies? His suggestion is that you wipe out the whole system of subsidies by taking the subsidy which is at present being paid to the province and capitalize it.

This policy which you suggest would then apply, that is that the province would not get anything unless it could establish need, so subsidies would be based on conditions present at that time.

HON. MR. MACDONALD: If the debts would be taken over by the Dominion in lieu of subsidies, that rather softens the blow. It is not a repudiation of debts, it is merely a substitution of one thing for another. His view is, of course, that the Dominion could refund these debts at a cheaper rate. So far as Nova Scotia is concerned, I do not think that would mean very much in money saved.

Our interest rates are fairly low; we borrow money at quite a low rate, not very far above the Dominion rate. I do not know whether you would save a great deal by having the Dominion take over the debts.

THE CHAIRMAN: Obviously then, Mr. Macdonald, those who buy your securities feel you are in a good position to pay your debts.

HON. MR. MACDONALD: I suppose I should not have said that, I believe they feel that we are trying to pay our debts and that our character is good. I have always said that bankers should look at a man's character when he approaches them for a loan instead of his assets.

THE CHAIRMAN: The moral risk is good.

HON. MR. MACDONALD: That is it, the moral risk is good. I am a little doubtful as to whether I understood your reference concerning the fiscal needs as between one province and another and the Dominion and provinces.

THE CHAIRMAN: There is a particular issue raised in your statement here, as to whether, under existing conditions and in the light of economic and social changes of the past seventy years, the financial arrangements between the Dominion and provinces as set out in the Confederation Act, is quite suitable. We are called upon to report as to whether the functions of government, Dominion and provincial, can be carried out under the present powers in the constitution, whether the provincial governments can carry out their obligations or whether there should be an assumption of part of those obligations by the central government. We are also called upon to report whether the provinces can carry their burden without additional grants as well as whether the matter should be

partly by the application of one principle and partly another. This may be a question between the Dominion and the provinces, as distinct between the Dominion and any one province. It raises the issues, whether the present burdens of government as imposed upon the provinces by reason of social and economic developments, are beyond their capacity to carry under the existing powers of taxation? If they are not beyond the capacity of the provinces to carry under the existing powers of taxation, then no change is needed. If they are beyond the powers of the provinces to carry under the existing system of taxation, should this condition be met by giving the provinces further powers of taxation, or should it be met by the Dominion relieving the provinces of some of their burden. It might also be met by the application partly of one principle, and partly of the other. This is a question between the Dominion and all the provinces, and is not dependent upon the particular position of any one province. This particular question refers to the financial basis of Confederation.

Now, you have raised another and distinct question, which was raised by Manitoba and Saskatchewan. This question is, whether the present basis of grants and subsidies to the provinces under the British North America Act which provides for subsidies to the provinces according to population, whether that is the sound basis or whether fiscal need should be the basis in determining the amount? This appears to me to be a distinct question and one which involves the determination of the amount which should be granted to each province.

HON. MR. MACDONALD: Yes, I should like to ask, Mr. Chairman, in speaking of a question between the Dominion and all the provinces, is it your suggestion that what is



done for one province must be done for another.

THE CHAIRMAN: I think it was our understanding at the start that this was not a new claims commission, it was a commission to examine the financial basis as between the Dominion and the provinces. I should assume, if the commission reached the conclusion that the provinces could carry the existing obligations of government which the recent decisions of the courts have imposed upon them out of their present revenues, it could/^{not}be necessary for us to recommend that the provinces should be relieved of some of their burden or that new sources of taxation should be made available to them. My present view is that that is the fundamental purpose of the inquiry and is intended to apply to all the provinces. There is a further question, however. The western provinces find themselves in an exceptionally difficult condition, I am speaking of the prairie provinces, due to economic conditions and recent years of drought. They have presented very substantial recommendations to the Commission which we must consider. I do not mean that it is beyond the scope of this Commission to consider such requests. However, I think it is clear that the fundamental idea behind the inquiry is the financial relationship between the Dominion and the provinces. As I understand your contention, it is this, assuming you do reach a conclusion on this point, and recommend the provinces should be relieved of certain of their obligations and that additional sources of revenue should be made available to them, yet when the Dominion comes to determine the amount to be paid over to each province, assuming a subsidy continues to be paid, the basis upon which that subsidy should be paid is not the basis set forth in the British North America

Act but is the fiscal need of the individual provinces.

HON. MR. MACDONALD: The latter part of your statement would be in line with my views, when you are asked to examine the constitutional allocation of revenue sources and the governmental burdens of the Dominion and provincial governments.

I should not feel that the Commission was bound to follow the attempt of 1867 and lay down a rule which would be equally effective as regards all the provinces. I think it was a mistake in 1867 to try and put the payments to the provinces on the basis of population or anything of that sort. I think it would be a mistake to-day, to say, "Well, we will increase the allowance per head from eighty cents to one dollar and forty cents or one dollar and ten cents." I think it is impossible to treat every province in the Dominion in the same way because some are in a more advantageous position than others.

THE CHAIRMAN: But you would agree with this, if, as you state in your Brief, the Dominion were to take over the entire cost of old age pensions, that would have to apply to all the provinces?

HON. MR. MACDONALD: I suppose in the matter of old age pensions, it would apply to all the provinces.

THE CHAIRMAN: In fact, if the Dominion took over the entire cost of any social service, would it not take it over for all of the provinces? We are looking at it in a practical way.

HON. MR. MACDONALD: I think so.

THE CHAIRMAN: Then, upon the important question of taxation, if, as suggested by you, the power should be given to the provinces to impose a sales tax, that would have to be granted to all the provinces.

HON. MR. MACDONALD: I am not so sure about that, I think it is in a different position. In the matter of old age pensions, the Dominion could not pay the whole of Nova Scotia's old age pensions and only seventy-five per cent of Ontario's. The Dominion would have to take a practical view of that matter; the Dominion could not favour the people of Nova Scotia to a greater degree than the people of Ontario. However, if Nova Scotia wanted to collect a sales tax from its own people, I suppose that is Nova Scotia's affair.

THE CHAIRMAN: Yes, but do you not think the power to collect, if there is to be an amendment to the B.N.A. Act enlarging the power of the provinces, would have to be granted to all the provinces?

HON. MR. MACDONALD: Yes.

(Page 5990 follows)

THE CHAIRMAN: It is, of course, a matter for each provincial government as to whether it will exercise the power or not. That is what I have in view. In re-examining the economic and financial basis of Confederation, it seems to me to be clear that any recommendation involving any fundamental change or substantial change in that basis must be a recommendation that applies to all the provinces. I am speaking of the basis.

Now, when you come to work out the details of the plan then I see the point of your argument; you say that any subsidy should not be on the basis, and turn upon so-called opinion of government, it should be on the basis of fiscal need.

HON. MR. MACDONALD: Yes.

THE CHAIRMAN: Now, would you not agree generally with the proposition the way I have stated it, Mr. Macdonald?

HON. MR. MACDONALD: Yes, Mr. Chairman, I should agree with that.

THE CHAIRMAN: I just raise it for the purpose of clearing the point up, so we will know exactly where we are on it.

HON. MR. MACDONALD: I should think, Mr. Chairman, if we had a Grants Commission in Canada, as recommended in the Nova Scotia Submission, together with this yearly conference, which is also suggested, between representatives of provincial governments and the federal ministry, or representatives of that ministry, we would have gone a long way to settle a great many of these problems that are agitating us today. Those two bodies, - the Grants Commission and the annual conferences, - could work, of course, very closely together, and I should think that would be a safer way; I think that is the way we have proceeded in the British Empire generally, we have gone along and tried

things out and changed conditions to suit the needs of the time. That would be better, rather than an attempt to lay down, as was attempted to be done at Confederation, a basis that would endure for all time. I doubt whether it would be possible to say today what would be exactly suitable twenty-five years from now; our successors will have to deal with that problem.

THE CHAIRMAN: In the case of a Grants Commission upon the basis of fiscal need, theoretically at least, it would be entitled to reduce grants as well as to increase them, on the basis of fiscal need. But, do you not think the problem of reducing would be very difficult?

HON. MR. MACDONALD: No, I do not think so. It has been done in Australia, and it is to be noted also that in Australia there are some states that get no subsidy; they are called the "non-claimant" states.

THE CHAIRMAN: That is, no additional subsidy. They get the regular subsidy.

HON. MR. MACDONALD: Yes, but they get no additional subsidy. Now, the same principle, I think, should be invoked in this country. I do not think you can put grants to the provinces from the Dominion Government on any such basis as population. I think you have to look at the original purpose of grants, - to eke out insufficient revenues, - and you have to say year by year how much is necessary. In Nova Scotia this year, well, \$200,000 or \$400,000; next year it may be that Nova Scotia needs nothing at all from the federal government, in which case it should get nothing, and I, if I had anything to do with it, should ask for nothing. In fact, I think every province should welcome the time when it could get along without any subsidy from the Dominion, although I doubt if that time will ever come.

THE CHAIRMAN: I think the tendency would be to increase it. That is no necessary argument against it. I think it is much easier to increase the grant than it is to decrease it.

HON. MR. MACDONALD: Yes, I suppose that is true.

THE CHAIRMAN: Human nature is no less human after you have a Grants Commission than before, Mr. Macdonald.

HON. MR. MACDONALD: No, except you have the thing coming into review every year, and the finances of the provinces are stated, instead of being stated as in the past on the application of one province, or at most, a little group of provinces, such as the Maritimes or the Western provinces. That, together with the yearly conference which, after all, is only an extension of the Dominion-Provincial Conference, I think would go a long way towards settling the whole problem.

Now, Mr. Chief Justice, there is nothing more on that point.

THE CHAIRMAN: No.

HON. MR. MACDONALD: I think I should proceed to Chapter III of the Brief, that is the operation of federal policies as affecting taxable capacity of the province. That is to be found on page 79 and following pages of the Brief. We begin there with the statement that subsidies alone are hardly enough, that there are other circumstances in our economic system, such as national policies, the distribution of natural resources unevenly between one part of the country and another, which are entitled to consideration. We say also, that as long as there are wide differences between certain parts of Canada, affecting the standard of living in these sections, affecting their profit-making possibilities for private enterprise, then there will be a disequilibrium there which

will mean more backward parts of the country and will produce great difficulties.

We know that it is very difficult, of course, to calculate in an accurate way the exact effect of national policy, such as the policy with regard to trade, fiscal matters, in the different parts of the Dominion, and that it is accordingly very difficult to attempt to compensate them accordingly. These policies have, as we say in the brief, sunk into the Canadian system and their indirect effects are now as extensive and penetrating as their direct effects. If one region has enjoyed special benefits of protection, that factor would greatly stimulate its protected trades, and those in turn would give stimulation to the consumption trades. This reciprocal process has indirect beneficial effects on behaviour in the region, raising general expectations as to its future, and influencing the flow of labour and the capital in its direction. In regions adversely affected by national policies, the reciprocal process acts downwards and there it is equally difficult to measure the effects of national policy, because these effects cannot now be segregated from the heterogeneous elements in the various regions.

When the Jones Commission sat in this province in 1934 and endeavoured to make some calculation as to the effect of the tariff in this province, that being the first time that the task had ever been undertaken by a commission, they realized that the exact gains and losses could not be calculated. We were hampered at that time, of course, because we were not able to secure certain statistical information from the government at Ottawa, which would have been very valuable to us. The government at Ottawa refused to recognize in any way the Jones Commission; refused even to appear before it, and refused to lend the assistance of some of its Departments.

The Duncan Commission, which met in 1926, as I said yesterday, refused to consider the effect of the tariff policy of Canada on this province, holding that that was a matter for the Tariff Board. They did, however, suggest the claims of the province should be reviewed with sympathetic consideration and understanding, so that in approaching the future a better balance of territorial prosperity can be assured, and the original hope of Confederation made capable of realization. That was as near as they got, I think, to a pronouncement on the tariff. A little later on when they dealt with trade policy and mutual treaties for forest products and fish, - I think if the three extracts on page 81 are read together one will see that the Duncan Commission, while not wishing itself to deal directly with the question of tariff, felt it should be dealt with, and that some adjustment should be made in the interests of such sections of the Dominion as Nova Scotia.

Now, the White Commission, - an extract from this Report is cited on page 82, - said, because we argued before them the effect of the tariff on our economic life, that "the Maritime Provinces have not shared proportionately with the other provinces of Canada in the economic advantages accruing to the Dominion as a whole from Confederation, and that in our recommendations we have taken it into account as one of the most impressive elements in their case for more favourable financial arrangements."

Now, the White Commission distinctly stated that by the terms of their reference they deemed the scope of their inquiry to be limited to the matters of revision of financial arrangements, and I think the terms of their reference did bind them only to that; but, they too were impressed by the fact we do not share in the economic advantages

accruing from Confederation, which I think must be taken to have reference to the tariff policy in this country.

Now, the Jones Commission in 1934 cited, with approval, a pronouncement made by the premier of Quebec at a conference in 1927, to the effect that happy provinces were necessary to a happy and prosperous Dominion, and went on to say, in the words of Dr. Innis, that no province has been exposed more directly to the effects of the national policy, and no province deserves more careful consideration as to a policy of development. That is at the bottom of page 82.

COMMISSIONER DEFOE: Mr. Macdonald, the question of the incidence of the tariff has been before us in all our presentations, and there are some aspects that undoubtedly come within our terms of reference; there are some aspects of the question that are certainly puzzling, and I hope that before the commission concludes its labours that the question will be so thoroughly discussed that the issues will be clarified. The question which I have in my mind, and it may be in other minds, is that of political responsibility in the adoption of those tariff policies, whose incidence are, apparently, admittedly disasters - well, that perhaps is too strong a word, - undoubtedly bear rather heavily on some sections of the national economy. Now, is the question of compensation or adjustment effected one way or the other by the fact that the areas which have been adversely effected, may have been not only consenting but active cooperators in the bringing of these policies into operation? Does that modify the case? It has been suggested in some presentations to the commission, though not in this particular brief, that the central provinces owing to their political and financial power had imposed these policies upon the

provinces or the areas which have suffered from their application. But, of course, that is not an accurate statement. The definite question of protection in Canada, as mentioned somewhere in the brief, was first applied in 1879; it was called a national policy, - accurately, in my opinion, - because the discussion was nation-wide, there was a nation-wide acceptance of the policy, and the government which inaugurated it commanded the support of a majority of members from every area in Canada, and since then the tariff has been under constant discussion. Since then we have had at least three general elections, in which the tariff was almost the sole issue, and in none of these elections was it a case of the central areas combining in support of a particular policy against a dominant, critical view from the outside areas. In fact, the central provinces disagreed on tariff, to some extent, and in every one of those cases there ^{was} a definite national judgment in favour of tariff protection; twice when the issue was a suggestion that the tariff should be reduced, once when there was a very definite suggestion that the tariff should be put up. In all of those test cases there was a national verdict unquestionably in favour of the tariff. Now, have these circumstances any bearing on the argument? Of course, if it is a case of fiscal need, if we deal with the situation as it is, no matter how it happened, I do not suppose they apply, but I am not clear in my own mind as to whether the political factor intervenes.

I am not asking you to discuss it, Mr. Macdonald, I am just stating something that stands out in my mind.

HON. MR. MACDONALD: Of course, in regard to the elections to which you refer, I suppose elections are not fought on any one single issue; as we all know, there are a good many issues. That is the first comment that I think should be made. It is very difficult to isolate one

thing and say that the people have voted on that. I know that a politician sometimes chooses to interpret verdicts in that way, but I do not know that it is always accurate unless there is one issue that is so tremendously overwhelming that all other things are cast aside.

COMMISSIONER DAFOE: Was not that the case in 1891 and 1911?

HOW. MR. MACDONALD: In 1911 there were certain other factors besides the question of trade, and in one central province there was a definite factor of another sort entirely, and it had an important bearing on the fact, and it was not a trade question. In 1891 it was largely fought out on the trade issue, and there was a cry then not wholly dissimilar to the cry in 1911, - perhaps reversed, - but, the same question appeared in 1891, the question of loyalty.

Perhaps, if one took a plebiscite of the country on the matter one would have a fair idea on it.

Then, as to the responsibility of representatives in the federal parliament, well, theoretically one might say this or that, but there are always exigencies. I should not say that members from the Maritime Provinces in the federal house have always taken the position of looking at it from the fair viewpoint of Nova Scotia that they should take, but as members of the federal parliament they have the duty to look at things in the proper way. I am, happily, free from that obligation here, but they are not, and they might have in the general interests supported a policy which possibly would not be to the advantage of Nova Scotia, or New Brunswick, or Prince Edward Island, or Saskatchewan. That, I think, is another factor which will have to be considered.

Finally, I suggest when you are dealing with conditions as we find them today, and even if mistakes have been

made in the past, and men have taken too large a view, - if they have been too imperialistic or too national in their outlook, and not sufficiently local, and have not stood up for their own particular section of the country, I suggest we should say today: "What is the condition, and what is the best thing we can do to fix it? Have we got this tariff? Is it going to bear too heavily on the outlying regions? If so, what sort of compensation can we give to them to help smooth over their difficulties?" Possibly that is the best way, but there is an interesting point that I may refer to here, and that is the constitution of the Senate of Canada. The Senate of Canada originally was designed to represent the provinces, more or less; that is, the distribution of the Senators was twenty-four from Ontario, twenty-four from Quebec, and twenty-four from the Maritimes, in the hope that would be a suitable balance wheel. I find of the forty appointments to the Senate from Nova Scotia, leaving out the original appointments, twenty-one had been members of the federal House before going to the Senate. The majority of the forty had no experience in the provincial legislature. Therefore, so far as the Senate is concerned, it has fallen away from the original idea of the constitution of that body. I think the original idea was to take men who would, perhaps, represent the provincial viewpoint, rather than men who had been in federal politics, and who were merely transferred from one branch of federal politics to another.

THE CHAIRMAN: Mr. Macdonald, when it comes to the question of federal policies and the electors are called upon to choose members to the House of Commons, must one not take that expression of opinion in the choice of members as indicating their view on the question of policy? I am just wondering that if in these elections

in which the tariff was a paramount issue, would not Nova Scotia, in practically every case, elect a majority of members in favour of protection, or high tariff?

HON. MR. MACDONALD: In 1911 the representation was evenly divided between the two parties. In 1891 there were 16 Conservatives and 5 Liberals. If they were voting on the tariff, and I suggest they were not in either election - at any rate, if they were voting on the tariff they voted the wrong way. There is no political significance in that, but the counties whose products might have been affected by the terms of the Reciprocity Agreement, or suggested agreement, for instance, the coal mining counties voted Liberal. Pictou, Cape Breton, Inverness, and Cumberland voted Conservative, but the other three coal mining counties voted one way, and the fishing counties, which might be expected to benefit under it, voted the other way. Well, I do not wish to be cynical about these matters, but I should not attach too much importance to the result of elections, where tariff matters are in issue. But, in any case, if in fact the statements of the submission are well founded, and if the tariff has borne heavily upon us, even though all our good men and true at Ottawa have made mistakes, the time has come now, I think, for these mistakes to be rectified in so far as they can be rectified.

COMMISSIONER DAFOE: Your answer is that we have to deal with the situation as it stands, regardless of the factors that produced it.

HON. MR. MACDONALD: Yes. And furthermore, - I am not suggesting this in any vain way, - the truest expression of opinion as to the feelings of a province would be obtained by the provincial government rather than by the federal government, and that is why I referred to the

constitution of the Senate. The more men who have come out of the Provincial field, without being "contaminated" might I say, in another field, is a truer expression of provincial feeling. I think this government in Nova Scotia, with all respect to our present representation at Ottawa, - they are all excellent men, - is in a better position to interpret the feelings of the people than those at Ottawa who have, of course, other duties than the interpretation of the feelings of the people of this province.

THE CHAIRMAN: May I put this question, with great respect, Mr. Macdonald; is that true when you are dealing with federal issues and federal policies, which the federal members are required to study and upon which they are elected. The provincial government is elected presumably on issues of concern in the province, and I just wonder whether the federal members, having been elected on federal issues, are not at least as well qualified as the provincial government, elected on the different issues, to interpret the mind of the province on federal issues? It all raises the difficulty of this Commission sitting in review on the incidences of the policy which the majority of the people of the province have, on some occasions at least, approved. I believe it falls within the scope of our reference, and we are glad to have all the light we can on it. Although I think you must admit it presents the greatest possible difficulties in giving any effect, in a monetary way, to such arguments.

HON. MR. MACDONALD: Might I ask if the Commission were satisfied that the tariff in fact is burdening this province, surely it would not be swayed from the path of virtue by the fact that federal members from this province have not objected as strenuously as they might have.

THE CHAIRMAN: Nothing shall sway us from the path of virtue.

HON. MR. MACDONADD: Well, then, from the path of correct findings. As I say, I think it is a practical question now; I do not attach too much importance to the facts, and they are undoubted facts, that on two occasions when the tariff was one of the issues, - at any rate on one occasion, there was a decided vote in favour of what might be called "protection", and on another occasion the vote was even, there was no decision one way or the other. Now, there are many other things, the personality of the candidate, local feeling, and one thing and another; I don't think that should be given too much weight.

I was giving some citations from the findings of Dr. Innis, member of the Jones Commission, who was speaking of national policy and its centralizing effect -

THE CHAIRMAN: Mr. Macdonald, just one other question. You say that the White Commission "give no effect---". I read the extract from the report of the Commission on page 82 which you read to us, as indicating they had given effect in their consideration of the whole matter, but there may be some passage in the report which shows that, which was not included in this clause.

HON. MR. MACDONALD: This is another instance, Mr. Chairman, of the error which I know this Commission will not fall into, of not wishing to call things by their proper names. For instance, the White Commission said definitely that "we are concerned only with the matter of revision of financial arrangement" - that is at the bottom of page 19 of their report, - "The broad economic problems of the Maritimes like those of the other Provinces are for the Government and Parliament, to consider and deal with. Increase of money grants to individual provinces will not alone bring about prosperous conditions within their areas although it may indirectly assist by promoting, through educational and public welfare services, economic efficiency or by reducing taxation within the province

"and thus lessening the burden upon trade and industry."

Then there follows a quotation from the Duncan report, and then the White Commission say this:

"We are in accord with the claim of the Maritime Provinces and with the finding of the Duncan Commission that these Provinces have not shared proportionately with the other provinces of Canada in the economic advantages accruing to the Dominion as a whole from Confederation and in our recommendations have taken it into account as one of the most impressive elements in their case for more favourable financial arrangements."

It is a little difficult to understand or reconcile those statements except to say this, that they would not definitely recognize the tariff and say "you are entitled to so much for the tariff" but they will recognize the tariff as having created a condition here of fiscal need, - although they do not care to use that term, - but "we recognize the tariff as producing another condition, which condition in turn deserves some consideration."

THE CHAIRMAN: And which they say is one of the most impressive elements in their case for more favourable financial arrangements.

HON. MR. MACDONALD: Yes, that is the point I am endeavouring to make.

THE CHAIRMAN: The only point on that is this, Mr. Macdonald; if that be so, then did not the amount awarded by the White Commission cover that matter? That is the proposition on which I would be glad to hear you.

HON. MR. MACDONALD: Yes. Well, of course, they said they hoped this would be a final settlement. The Commission said "we recommend certain sums as a fair, just, and equitable settlement of the claims of the Maritime Provinces for the revision of their financial arrangements with the Dominion." They apparently thought they were making a

final settlement, but before the report appeared at all, and in fact in the last day of my appearance before the White Commission I was very careful to say that I did not consider that the White Commission could finally settle this question; that the whole matter of Dominion-provincial relations would have to be considered by a Commission, not merely finance but other relations as well, and a Commission considering not merely one province, but all provinces.

THE CHAIRMAN: Perhaps you are the parent of this Commission.

HON. MR. MACDONALD: Well, on page 59 of the Submission, I said to the White Commission:

"I do not believe that subsidies are enough." I agree entirely with the argument of the Nova Scotia counsel before the Jones Commission, that subsidies are not enough. What we need in Canada is a general revision of the British North America Act, especially with regard to the financial arrangements between the Dominion and provinces. That cannot be done in a day or a week or a month; it is a matter for one or two years."

Then I made some comments as to the character of the people who should be engaged in this work but those comments were so flattering to the present Commission that I felt they should be left out; I felt they might embarrass the present Commission. Then this follows:

"Consideration should be given not only to what ought to be done in the way of money grants but how the whole field of taxation should be allotted; what services should be taken over by the Dominion and what by the provinces, " and so on.

Then I repeated that subsidies were not enough and I also said I would come back, if necessary, until the whole matter of the relations between the provinces and the Dominion were settled equitably and fairly.

Well, the White Commission, as I say, did apparently regard this finding as a fair and equitable settlement. But I do not so regard it and I think the whole matter is open to this Commission. Of course, nearly all provinces outside of British Columbia, Ontario, and Quebec, have had Commissions at one time or another, reviewing their affairs, and I suppose they have all brought in final reports, so if reports of such Commissions as the Duncan Commission, the White Commission, the Turgeon Commission, and the Dysart Commission, are to be taken as final the duties of this Commission will be very much reduced.

THE CHAIRMAN: We will hear everything you have to submit, Mr. Macdonald, on those matters.

COMMISSIONER DAFOE: Ought you not to except British Columbia from the line-up because in the speech from the throne in 1884 it was announced with a note of jubilation that a Commission had adjusted finally the difficulties between the Dominion of Canada and the province of British Columbia.

HON. MR. MACDONALD: I don't think they have had one since, they are entitled to one now.

THE CHAIRMAN: In the 1907 re-adjustment of subsidies it was to be final and unalterable, and that, I understood, was agreed to by all the provinces except British Columbia, but there have been alterations since then. Apparently nothing is final in this Dominion-provincial relationship.

HON. MR. MACDONALD: Of course Section 118 of the British North America Act says "these are the sums and these only" but within the year they were adding more and they have been adding bit by bit to this province and to that province ever since.

THE CHAIRMAN: It is rather difficult to say it is a contract in view of the changes that have been made on a financial basis.

HON. MR. MACDONALD: Yes, rather difficult.

There are some pages there that I need not refer to. If the Commission will turn to page 88 of the Submission they will find in the second paragraph a reference to the Australian Grants Commission, which does consider tariff policies. There is some difficulty in reconciling all the statements made by the Australian Grants Commission, and by the special Commission appointed by the British Government to consider the Australian tariff in 1929, but as near as I can state the matter I think it is this: in Australia they take need as the basis of grants, but they consider the tariff as one of the elements which may create need. I think they have come down pretty well to that basis and, of course, they consider other things, such as the natural resources of the various sections, the rainfall in one place and the aridity in another. They say all those matters are proper matters for consideration in regard to the financial need.

The fourth Australian report, which is the last one, paragraph 7;

"The Commission, however, felt bound to enquire whether there were any political or economic causes which worked adversely to smaller states, or states in special circumstances. As a result of this enquiry it was shown, in chapters 2, 3, and 4 of the third report in some federations there was not only an uneven allotment of financial power in the Constitution, but that the conditions of federation tend to produce inequalities as between undeveloped and developed states. This is particularly true of the Australian Commonwealth to the extent that state finance is embarrassed by these causes, special grants are justified as an appropriate method of relief.

indicating clearly that they regard the tariff as a

"proper matter to be considered in deciding on the amount, or the necessity in which a province or state finds itself."

Paragraph 8 goes on:

"Thus a grant on these principles is not merely for the relief of distress, but covers the effective forces arising indifferently from geography, from economic/^{al} conditions or from national policy, which tend to make it impossible for a state to give its citizens a standard of public services necessary for a state in the Commonwealth."

That seems to be about the basis to which they got in Australia; they put the matter on the ground of need, but in determining need they are willing to consider national policies, geography, and all sorts of economical conditions which produce that need. That is what I am suggesting here. I do not suggest that the Commission necessarily should make recommendations on the tariff, - although it is not for me to suggest what recommendations the Commission shall make in that regard, - but I do suggest that at least they should take into consideration the effect of the tariff as affecting the people in this province, affecting their tax paying ability and thereby affecting the financial condition of this government.

(Page 4014 follows)

THE CHAIRMAN: Mr. Macdonald, how do you determine the balance of advantages and disadvantages? I take it the iron and steel industry of this province, which is a very important one, would find some difficulty in carrying on without some method of protection, would it not?

HON. MR. MACDONALD: That whole question is dealt with in our submission.

THE CHAIRMAN: If you are coming to it, do not let me anticipate it.

HON. MR. MACDONALD: Yes, I am coming to it.

THE CHAIRMAN: Then, just wait until you come to it, Mr. Macdonald.

HON. MR. MACDONALD: I would ask the Commission to turn to page 91 of the submission, the second paragraph, in which the Jones Commission is cited:

"An objection may be taken to the general analysis of the problem on the ground that the Dominion is under no obligation to recognize and adjust the varying fiscal needs of the Provinces as determined by their relative abilities to meet the expanding costs of public services. This objection can only be sustained, however, on the assumption that the varying degrees of economic progress in the Provinces have not been affected by the operation of the fiscal policies of the Dominion. We are unable to accept this assumption. On the contrary, in our earlier study of the Provincial effects of national economic policies we reached the conclusion that the protection adopted in 1879, and developed in subsequent years, resulted in unequal stimuli to industrial development in the various Provinces of the Dominion. From our observations and study in the course of our enquiry we formed a definite opinion that, on balance,

"the economic life of Nova Scotia had been prejudiced by tariff policy which at the same time accelerated the economic development of certain areas in Central Canada to which we have already referred."

There the point is made that if a National policy has created a fiscal need in a certain part of the Dominion, then it is the duty of the National authority to endeavor to compensate that part of the Dominion for the injury which it has suffered because of a national policy framed in what was considered to be the national interest.

Then, he goes on to deal with the point raised by you, Mr. Chairman, a moment ago:

" In the brief submitted by the Counsel for the Government of Nova Scotia an attempt was made to estimate the distribution, between the Provinces, of gains and losses under the existing tariff. We attach importance to the investigation."

They go on to say that the data was scanty. However, the methods were bound to become more perfect as more complete statistics were available and so on.

With regard to the method of ascertaining the general effect of the tariff, on page 99 of the submission we refer the Commission to the case prepared by Mr. Rogers in 1932, contained in what is known here as the Red Book, pages 88 to 102. Copies of that book will be filed with the Commission. Mr. Rogers took, in short, the enhancement of prices to consumers in Nova Scotia because of the tariff. He placed that at about \$15,000,000 in round figures. Then he took tariff subsidies to manufacturers in Nova Scotia and he put that at about \$9,000,000 in round figures; leaving a net loss there of \$6,000,000. He then took the tariff on coal marketed in Canada and he deducted that from the loss under the tariff and he found in effect that the net loss to Nova Scotia, because of the tariff in

1931, in that year alone, was \$4,478,000.

In the submission to this Commission we go on to point out that Professor MacGregor of the University of Toronto had made some criticism of the method followed by Professor Rogers.

THE CHAIRMAN: I think you said that the Commission itself did not criticize the method but criticized the results.

HON. MR. MACDONALD: Or the Commission, yes. And Professor Rogers himself realized that he was giving an indication of a condition rather than an accurate estimate of the effect of the tariff, he so stated to the Jones Commission. And Professor MacGregor's criticism, his figures would be somewhat less than Professor Rogers', but they would still be substantial. He questions of course whether Professor Rogers should have taken the gross value of all manufactured^{goods} in Canada and he raises some other points.

COMMISSIONER DAFOL: He questions the ratio of enhancement in prices, does he not, quoting an Australian finding?

HON. MR. MACDONALD: Yes. Professor Rogers said the enhancement he thought is about 26%. Professor MacGregor says that in Australia they thought the enhancement due to the tariff there was a good deal less than that.

COMMISSIONER DAFOL: 16% is my recollection.

HON. MR. MACDONALD : 16%. Although later on in their report down there they seem to feel that 16% was a little too low an estimate and possibly it should be higher. But I do not think we can ever arrive, at least I could not arrive, perhaps the Commission with its experts could arrive at a more accurate estimate, but I do not think anyone in this Province, or anyone who knows conditions in the province, will say that Mr. Rogers figures are not on the right side. That is, there is no doubt there has been

an injurious effect because of the tariff. Whether it is \$4,000,000 or \$3,000,000 or \$2,000,000 or \$5,000,000, it is really difficult to say. I think the effect of the tariff has been injurious and I think the injury has been substantial. I do not think there is any question about that. Any one has only to look at the map of Nova Scotia and see its natural trading source, its natural markets and that sort of thing, to realize at once that a policy which holds us to trade largely with unnatural marketing areas is not beneficial to this province.

THE CHAIRMAN: Suppose the United States tariff was the same as it is, and it is the same as it is practically against all countries, subject to the recent agreement, how would the Province of Nova Scotia benefit in marketing its produce?

HON. MR. MACDONALD: Suppose the American tariff was lower?

THE CHAIRMAN: Suppose it has been as it has been during the past forty or fifty years. I mean it is the height of their tariff that prevents you from selling in their markets.

HON. MR. MACDONALD: Yes.

THE CHAIRMAN: Now, assume that tariff had been what it has been, how could you have marketed your products to greater advantage than you have done.

HON. MR. MACDONALD: Of course, that is one of the penalties we paid when we went into Confederation.

THE CHAIRMAN: I mean suppose you had not gone into Confederation?

HON. MR. MACDONALD: Yes, we would be making treaties with the United States ourselves whereby their automobiles would be coming in here and our fish and lumber would be going into the United States. That is what we would be doing probably. I think we could have accomplished it

THE CHAIRMAN: That is possible. You know the difficulties in making treaties on fish in view of the objections from the New England fishermen.

HON. MR. MACDONALD: Yes.

THE CHAIRMAN: Are we not entirely in a speculative realm? With the greatest respect to economists it does seem to me there is the greatest difficulty in arriving at conclusions that can be put in terms of money, when one has to assume an entirely different state of things than exists. One has to assume that another Government has followed a different direction from what it has pursued. And I find great difficulty in seeing how any economist, with the greatest respect to them, can put into figures any amount which it can be said that a Province has lost or figure the amount a Province has gained. You may be able to say the tariff on the whole has not been as advantageous to Nova Scotia as it has been to the central provinces. I can understand that as being a perfectly fair and sound argument. But I do find great difficulty in seeing how anyone can be safe in acting on any figures, when so many assumptions have to be made.

HON. MR. MACDONALD: Undoubtedly some assumptions have to be made. I have not the slightest doubt whatever myself as to what would happen here if Nova Scotia had the power to make its own trade treaties, - not the slightest doubt in the world what would happen with regard to most of our natural products. The fishing industry in this province would treble itself within five or ten years had we that right. Automobiles would be cheaper in this province by anywhere from fifteen to twenty per cent. Other articles would be cheaper as well. I have no doubt in the world of that. I say we have paid that penalty, or I should not say that penalty, we paid that price in going into Confederation

and we have got the advantages, as you suggest, with regard to our coal and steel and some other manufacturing. There have been advantages, we are willing to recognize that, but the great primary industries in this province, outside of mining, the industries of agriculture, lumbering and fishing have suffered. I do not think there can be any doubt about that. The exact amount of suffering I agree is difficult to determine, but in any given year I do not know that the task is impossible for statisticians and economists. Those imponderable and conjectural matters which you have referred to, Mr. Chairman, such as what would be the attitude of any country, that of course is difficult to calculate, but I cannot think it is beyond the skill of man to take Nova Scotia or New Brunswick or any other part of Canada and look at its condition in a given year and calculate with some reasonable degree of accuracy the effects and operations of a tariff on that economy. If you ask him to say then "Well, what would you do if you had the right to make treaties, where would you go?" Then of course he would be, as I am now, in the field of speculation. I am giving my opinion that I could trouble the fish industry in this province in ten years if I had control of the fisheries and the right to go out and get markets and barter something for something. That is my convinced view of the fishing industry in this province. But another man might say, "That is not so."

COMMISSIONER DAFOR: Do you not think, Mr. Macdonald, that you perhaps do not make sufficient allowance for the strength of economic nationalism in the United States in its present mood? Within the last ten years we have seen the United States under pressure from just a few counties in Maine and a small area in Minnesota bar out Canadian potatoes from their markets, so the competition could not have been serious. And we saw again a handful of farmers

in Vermont bar out maple sugar products from the Province of Quebec, a trifling importation, but of considerable value to Quebec, and yet the appeal to Washington that these comparatively small importations should not be allowed in because of unsettled prices was so conclusive that no resistance was offered to the demand at all. Would not the same pressure keep your fish out? One cannot say with certainty, but at least there is an assumption that you would not have been any more fortunate.

HON. MR. MACDONALD: They might keep the fish out of certain markets in certain parts of the United States. I do not think they would keep fish out of all parts. Furthermore, there are other great markets, such as the Porto Rico markets and other sections of the West Indies which have been extremely valuable to us, a great market for our dried fish. The backbone of the fishing industry in Nova Scotia was not the United States at all, it was foreign countries. But there is one thing that the United States could not do, and that is they could not prevent us letting automobiles come in here free of trade.

THE CHAIRMAN: Quite.

HON. MR. MACDONALD: And thereby saving a good deal of money to our people. That is one thing we could do, that is one way we could go. Whether we could work the other way and get our products into their markets would be a matter for negotiation and doubt in some cases. I have very little doubt as to what the general effect on our economy would be, -- it would be advantageous. I do not think there is any doubt about that.

COMMISSIONER DAFOE: Would you mind, Mr. Macdonald, going a little further into Dr. Innis' suggestion which you quote on page 83 as to a strong developmental policy? Is that a Dominion developmental policy or a provincial one to which the Dominion would contribute. It is at the bottom

of page 82 and goes over to page 83.

HON. MR. MACDONALD: I will get the original report. He is referring there, Mr. Commissioner, to a developmental policy on the part of the province because the full quotation is to be found at the very last of Mr. Innis' report and in fact it is found here in the submission:

"As far as possible the province should control and direct its services, in co-operation with the Dominion, with a view to the greatest possible efficiency. The co-ordination of activities within the province along the lines suggested throughout the report and co-operation with the federal government is an ideal to which the Province and the Dominion should aim."

and so on. He is speaking there of a developmental policy carried on by the province itself. And in that connection he and the other commissioners recommended the setting up of an economic council in this province to consist of men representing the various industries, representing the universities, labour and so on, with a skilled economist as secretary. That has been done and the council, I am glad to say, has done some very valuable work, but its efforts have been directed along the developmental lines suggested by Dr. Innis for the improvement of these industries, the marketing conditions and the production and so on.

THE CHAIRMAN: To prevent any misunderstanding, I think I made myself clear in speaking on the tariff, I did not suggest or intend to suggest that it might not be possible for an economist to form an opinion as to whether the incidence of the tariff policy resulted in greater benefit to one section of the country than to another or if it had incidents that were unfavorable whether they were not more unfavorable in one section than in another. My whole point was as to the difficulty in computing in

dollars and cents the difference in the incidence or the amount of any disadvantage.

HON. MR. MACDONALD: Yes. I was referring I think last to page 92 where Dr. Innis speaks of the national policy and at the bottom of that page he says:

"Assuming that the fiscal system of Canada will persist and that the outlying regions must continue to pay the costs of transportation, the problem of compensation remains."

And then he goes on to point out from all points of view it becomes a sort of treadmill to the outlying parts, insofar as compensation paid by the Dominion treasury in so far as it is paid from revenues secured from the tariff tends to be paid by the region which is injured and so to perpetuate a vicious circle.

"The burden of the tariff falls with disproportionate weight on Nova Scotia and compensations tend to be paid for from receipts from the tariff, with protection to Central Canadian industries the trend becomes more conspicuous and Nova Scotia bears a disproportionate weight and pays a disproportionate share in compensation. Protection of Nova Scotia and the Maritimes by the appointment of Federal Ministers of Finance from this region is of slight avail."

Then he goes on to say:

"To avoid the tread mill character of the present fiscal system, with its reliance on the tariff and subsidies, the province should insist not only on increased assistance to repair the damages of the national policy, but also on a policy which will ensure, that it is not forced to pay its own assistance"

And so on.

On page 94 there are extracts from the Jones Commission report definitely declaring that in their opinion the industries of Nova Scotia on the whole have suffered materially from the high tariff policy pursued by Canada for fifty years. They recognize some assistance to the coal mining industry, steel and so on, but when they are set against each other they say the result is injury to Nova Scotia.

On page 95 of the submission there is a significant statement, first made in 1926 by the then Government in Nova Scotia when presenting its case to the Duncan Commission. They said then:

"Protection, or free trade, or an exclusively revenue tariff may be advocated with some show of logic, but surely no reasonable defence, no consideration based on equity or sound public policy, can be advanced in support of a system under which Nova Scotians are compelled to buy what they consume in a substantially protected home market, and to sell what they produce in a virtually unprotected one."

That was the view of the government of Nova Scotia in 1926 and a government which in many respects perhaps might be expected in regard to the tariff to have views different from the views of the members of the present government. But there is a frank statement of the opinion of the Government at that time, - the opinion of the present government as represented in the submission to the Jones commission in 1934 and in the views that I have endeavored to express this morning.

On page 97 of the submission there will be found a quotation from the report of the special economic enquiry into the Australian tariff. That report appeared in 1929 and some of the observations made in the report and cited

on page 97 are of very definite application to conditions in this country.

THE CHAIRMAN: Do you remember who constituted that tariff Commission, Mr. Macdonald?

HON. MR. MACDONALD: That was appointed by the Imperial Government, the committee consisted of J.B. Brigden, D.B. Copeland, that is Professor Copeland of one of the Australian universities, E.C. Dyason, L.F. Giblin, Mr. Giblin is also a university professor there, and afterwards did very valuable work on the Commonwealth Grants Commission, and C.H. Wickens.

COMMISSIONER DAFOE: Mr. Wickens was the Australian statistician and Mr. Dyason is a business man of Sydney.

HON. MR. MACDONALD: Messrs. Copeland and Giblin are professors, Mr. Brigden I do not know whether he is an Australian, it is quite possible he is an Englishman. The Commission was appointed by the British Government at the request of the Government of Australia. For instance, on page 97 the Australian Commission said:

"The unequal effects between states are probably the most embarrassing consequences of the tariff, but they have their roots in the unequal effects between industries, which are natural and inevitable consequences of tariff protection. Were Australia one small, compact economic unit, in which the benefits of protection were thoroughly diffused, in which one common tax system operated, and in which development expenditure was equally shared, differences between areas would be less important. But with our diverse geographical conditions and our Federal System of Government this is not the case."

They go on :

"The distribution of Australian industries has been substantially modified by the tariff. Assistance to

protected industries has been provided chiefly at the expense of the export industries. We have shown that those industries", - that would be the export industries, - "are retarded and that their land values have been curtailed. The costs imposed upon them have been borne chiefly in the country districts and in the outlying states, which are more naturally adapted for the export industries".

Very applicable to Nova Scotia.

"The geographical differences between the states account for differences in aptitude, and the benefits of increased production have been transferred from areas and states having natural aptitudes for export industries to areas and states having natural aptitudes for the protected industries. The tariff has, therefore, materially affected the relative prosperity of the different states."

They go on and say:

"The established producers in these areas and states have undoubtedly been penalized by the tariff. From the point of view of the states themselves the consequences are not less important. Not only have the incomes of the established producers been curtailed, and therefore the taxation derived from land and incomes generally, but some production has been prevented, and the state revenue which would have been received from that production has been lost. This applies not only to tax revenue, but to revenue from various state services, and especially from railways".

That is exactly the position we are taking here. We are saying that the tariff injures our people and injuring our people it injures this Government, makes the financial position of this Government less secure. Our people are not

able to pay the taxes which they otherwise would and consequently the government finds itself in a more difficult position.

They go on to say, on page 98;

"The effect on state revenue from these combined causes is obvious, though not easily measurable. Still more difficult to measure with our inadequate data is the probably more important effect of the loss of export production which would have taken place without the excess costs of the tariff."

And so on. And they go on in the sixth paragraph, page 89, to say:

"It is natural that the harmful effects of the tariff should express themselves most acutely as difficulties of state finance."

Most acutely are they noticeable there. I think the quotation from that very able Australian Commission's report is well worth consideration as being applicable to the condition of affairs in Nova Scotia.

On page 99 of the submission there is a reference to the method followed by Professor Rogers in 1934 which we have already discussed, and unless the Commission wishes to have some further information as to that, I shall pass on to the next topic of the submission.

The next matter in the submission is the matter of Transportation and Freight Rates. On this point I do not intend to spend a great deal of time unless the Commission so desires, because I understand the whole question of the Maritime Freight Rates Act, and its effect upon the Maritime Provinces, its objects and its operation are to be discussed when the Commission meets in Fredericton, to be discussed by representatives of the Transportation Commission of the Maritime Board of Trade. And it is the hope that the

three Maritime Provinces may find themselves in a position to agree on one joint presentation. Mr. C.J. Burchall, K.C. who is with me now is the solicitor for that commission, and he, I fancy, will present the brief. There is a reference on page 100 and the five following pages to the general matter of transportation and freight rates. It begins with a reference to a resolution passed in London in 1866, one of the provisions of the London agreement for the construction of the Inter-Colonial Railway which they said was essential to the consolidation of the union of British North America and essential also to the assent of the Maritime Provinces to that union. That resolution found its way in a new form but substantially to the same effect into the British North America Act where it became Section 145, again guaranteeing the construction of the Inter-Colonial Railway. The Inter-Colonial Railway was constructed. Complaints arose within the last decade or two regarding the rates of that Railway and in 1916 when the Duncan Commission sat, that was one of the problems to which they were asked to direct attention and to which they did direct careful attention. The Duncan Commission, after careful consideration and consultation with the president of the Canadian National Railways and with various members of the staff, found that the Inter-Colonial Railway was intended to be, first of all, a means of affording to the merchandise of inland Canada an outlet to the sea, open all the year round, and, secondly, to afford to Maritime merchants, traders and manufacturers, a market of several millions of people in central Canada. Thirdly, Sir Andrew Duncan found that the road was 250 miles longer than was necessary, for military reasons. And finally he found that to the extent that commercial considerations were placed in a subordinate position in the road to those

important national and military considerations, he said the extra cost created by that extra 250 miles should be borne by the Dominion.

Sir Andrew Duncan's report was considered by the federal Government and the Maritime Freight Rates Act was introduced. Sir Andrew said in his report that down to the year 1912 the interests of Nova Scotia and the Maritime Provinces had been safeguarded fairly well under the management of the Inter-Colonial Railway, but that after that year increases were brought about in the freight rates of the Inter-Colonial which were considerably greater than the increases in other parts of Canada. He found that Inter-Colonial rates from 1912 to 1926 had increased accumulatively by 92%. That is to say their 100 had become 192. He found the average increase in the rest of Canada was only 55%. And he recommended that a reduction of 20% in the Inter-Colonial rates be made. Now, 20% would bring 192 down to approximately 155, and therefore bring the Inter-Colonial rates into their proper relationship with the rates in other parts of Canada. That lower rate was to prevail on traffic originating and terminating in the Atlantic Division and also on traffic originating in the Atlantic Division and intended for points outside the Atlantic Division.

That was the recommendation of Sir Andrew Duncan and the Maritime Freight Rates Act of 1927 was passed as a result of the recommendations of the Duncan Commission.

And in the preamble, which I need not read, it is set forth on page 103, which preamble unfortunately was omitted in the Revised Statutes of 1927, the preamble sets forth succinctly what I have been endeavoring to say. The Act itself went on to declare that the rate on Eastern lines should be reduced approximately 20% from the rate existing

on the first day of July, 1927. The Board of Railway Commissioners were told to cancel all rates on those lines and to approve rates 20% lower. The Board was also told to adjust or vary such substituted rates as new industrial or traffic conditions arose, but they were warned to always keep in mind the intent of the Act as expressed in the preamble of the Act, and in Sections 7 and 8 and other relevant sections thereof. The intent of the Act always was to preserve that relationship between the rates on Eastern lines, the Atlantic Division, and the rates in other parts of Canada.

Now, a recent decision of the Supreme Court of Canada has, we feel, to some extent nullified, at any rate seriously modified, the purpose of the Maritime Freight Rates Act. As I understand it, the decision given by the Board of Railway Commissioners and reconsidered by the Supreme Court of Canada is to the effect that where there is a rate in another part of Canada on a commodity, which may be called a competitive rate with Nova Scotia, if that rate in another part of Canada is reduced by a certain percentage, then they say to Nova Scotia or to the Maritime Provinces, "If you object to this go ahead and ask to have that rate cancelled, you can do that under certain sections of the Act!"

What our people have in mind in brief is this: If a rate is lowered in other parts of Canada and if that is a competitive rate with Maritime Province rates, then the Maritime Province rates should be lowered so as to preserve always the relationship intended by the Maritime Freight Rates Act. We do not ask, of course, that when any railroad rate in this country is lowered that we be lowered here, it is only when the rate may be called a competitive rate that we seek to have that relationship which we believe was in the minds of the Duncan Commission and in the mind

of the Parliament of Canada when the Maritime Freight Rates Act was passed, we want to see that relationship preserved.

I am merely giving in very rough outline the subject matter of what we have to say on Freight Rates and Transportation because the matter will be fully dealt with by the Transportation Commission of the Maritime Board of Trade later on, but I did want to simply bring it to the attention of the Commission so that they might have an opportunity perhaps of turning it over in their minds between now and their meeting in Fredericton.

THE CHAIRMAN: Thank you, Mr. Macdonald. It is now one o'clock and we will adjourn until 2:30.

AFTERNOON SESSION

The Commission resumed at 2.30 p.m.

HON. MR. MACDONALD: When we rose for lunch, I think I had finished discussing chapter three of our submission. I should like to begin now consideration of chapter four, in which we set out some illustrations of the low taxable capacity of the people of this province. We take most of our figures from the publications of different branches of the federal government, such as the Canada Year Book, and particularly a publication issued in 1934 by the Dominion Bureau of Statistics, entitled "The Maritime Provinces 1867--1934", a statistical study of their social and economic conditions since Confederation. Now, the first comparison we make is one between the different provinces on the per capita wealth of those provinces, and the per capita wealth of Canada as a whole. In this publication of the Bureau of Statistics, the title of which I have just read, the per capita wealth of Nova Scotia, is given as \$1,769.00 whereas the per capita wealth of Canada is \$3,075.00. Ours is a lower figure than that of Canada as a whole. I realize that figures of this sort dealing with per capita wealth and income or rents, are not wholly reliable, but the significant thing about the figures available in both the Year Book and the statistical study, is that in every case Nova Scotia is lower than the rest of Canada. Take, for instance, income tax. The per capita assessment of income tax for Nova Scotia is \$46.20, while the per capita average for Canada is \$90.99, nearly twice as great. Take some other tests applied in a statistical study of this matter. Motor vehicles; for instance, in Nova Scotia there was one car for every 15.8 persons and the present average for Canada is one car for every 11.7 persons. In Nova Scotia there is

one telephone for every 11.5 persons, while in Canada as a whole there is one telephone for every 8.3 persons. In the matter of life insurance sales, the average in Nova Scotia was 24.1 per capita and in Canada as a whole, 33.8. This is in spite of the fact that, as a whole, Nova Scotians are thrifty and would be inclined to take life insurance to the fullest extent of their means.

THE CHAIRMAN: Mr. Macdonald, without going into the figures of the other provinces, can you tell us what relation the figures you have given us for Nova Scotia would bear to the other Maritime provinces or prairie provinces? Perhaps you come to it later in your Brief?

HON. MR. MACDONALD: In the matter of motor vehicles, we would be not quite so well off as Prince Edward Island, we would not have quite so many motors in proportion to the population as Prince Edward Island. We would have more than New Brunswick, so we would be in between the two. Taking the Maritime provinces as a whole, they would have less motor cars according to population than the rest of Canada.

THE CHAIRMAN: They would have less than the prairie provinces?

HON. MR. MACDONALD: The prairie provinces are not given in this statistical study, but I can get those figures in a moment. This study gives the Maritime provinces individually, and then the average for Canada as a whole, the different provinces of Canada are not compared. I could tell you, so far as motor cars are concerned, that the west is considerably ahead of us.

THE CHAIRMAN: I think that is to be expected, having regard to the distance which they have to travel, and the part the motor car plays in the economic life of the provinces.

HON. MR. MACDONALD: Without reading abl of the figures used in this statistical study, I will go on to give some idea of the position of Nova Scotia. Using the figures of 1930, which was the last year available at the time this study was made, our per capita net production was \$223.00 while the average for Canada was \$309.00. According to the census for the year 1931, the yearly earnings for workers, male, in Nova Scotia were \$763.00, and the average for Canada was \$927.00. The female workers of Nova Scotia averaged \$430.00, while for all Canada the average was \$560.00. The curious thing about this statistical study is that, no matter upon what basis you put it, the capacity of paying taxes in Nova Scotia will be found to be the lowest. It will be found to be twenty to forty per cent below the average of Canada. The serious conclusion which one must arrive at in considering figures of this sort, is the result which it must invariably have upon the future of the province. If wages are lower here, if incomes are lower, if people cannot have the same simple pleasures of life as those which are enjoyed by people in other parts of this country, the result will be that the younger, stronger element of our population will be attracted to other parts of Canada or other countries. I think it is a fact that this condition has already set in. The population of Nova Scotia between 1921 and 1931 declined by 11,000 souls. We had a population in 1921 of 523,000. We should have had a population in 1931, with a normal and natural rate of increase of 550,000. Instead, we had a population of 512,000. Not only did we lose the natural increase which might be expected, but there was a natural decrease of 11,000 people.

Then, if you look at the figures of the population

according to age groups, especially the group from twenty-five to forty-four years, you will find that Nova Scotia is well below the average of these groups for Canada as a whole. These years are the most productive years of a man's life, and it is in these groups that Nova Scotia is well below the average for Canada. There is a complete study of the whole problem of the decline in population in Nova Scotia contained in our submission to the Jones Commission, pages 81 to 87.

You asked, Mr. Chief Justice, for a comparison between Nova Scotia and the west with regard to automobiles. We had in 1935, 43,000 automobiles, Manitoba had 70,000, Saskatchewan, 94,000, Alberta, 93,000, and British Columbia 98,000. It is apparent from this, that all of these provinces had considerably more automobiles than the province of Nova Scotia. In that year, Manitoba had a population of 700,000 as against our 512,000. On our basis, Manitoba should have about 60,000 automobiles, when as a matter of fact, they had 70,000.

THE CHAIRMAN: You have many more boats than they have.

HON. MR. MACDONALD: Yes, but a boat is not used nearly so much now as a means of travel. Saskatchewan had 94,000 automobiles to our 43,000, whereas relative to population, Saskatchewan should have had something like 80,000. The difference between Nova Scotia and Alberta is still greater. Alberta should have had about 65,000 and actually had 93,000. All of these figures, I think, show approximately the same result, that we, in the maritime provinces, and generally what applies to Nova Scotia applies to New Brunswick and Prince Edward Island, are far below the Canadian average. As I have indicated,

and as I glanced at these figures early this morning, I thought, "This is a serious factor for us to consider as it concerns our future." What future is there for any young man or young woman who is faced with conditions of this sort, a declining population, lower wage standards, and so on. There is only one result likely to accrue from such a condition, that is, that the people will move to some other part of the country or some other country which is more attractive.

THE CHAIRMAN: Did you say the standard of living in Nova Scotia is declining, or the standard relative to the other provinces is lower?

HON. MR. MACDONALD: I do not think I said the standard of living is declining, I said that the standard of wealth, the standard of wages and so on is lower in this province than in the rest of the Dominion. I think you will find from the figures that it is from twenty to forty per cent lower.

THE CHAIRMAN: You have no comparison of the real wages as compared with the actual wages?

HON. MR. MACDONALD: The cost of living here, is, I should say, on the whole, in line with the other parts of Canada. Take rent in the city of Halifax, I think they are as high as they are in any city in Canada. Foodstuffs are not lower.

THE CHAIRMAN: The cost of living at your hotels is lower than in most other parts of Canada, if that is any criterion.

HON. MR. MACDONALD: The Labour Gazette would have some figures on that, but I have not looked at that for some time. My impression is that the cost of living here is not lower than in the rest of Canada. In some respects,

it is higher, and in some it is lower. On the whole, however, I should think it is no lower here than it is in the rest of Canada.

We now come to the matter of taxation returns; how do they compare with the province of Ontario? A study was made in 1934 for the Jones Commission by Professor A. B. Balcom; this study has been brought up to date. In the matter of gasoline tax, the tax in Nova Scotia is much higher. It is eight cents here, while it is only six cents in Ontario. The yield per capita from this tax in Nova Scotia is \$3.38, while in Ontario the yield is \$4.59. This is in spite of the fact that our tax is thirty-three per cent higher than that of Ontario. If Ontario had an eight cent tax, they would receive a per capita yield of \$6.12, nearly double what Nova Scotia receives. So far as corporation taxes are concerned, the Ontario scale is lower than that of Nova Scotia, yet we receive a per capita yield of \$1.92, and Ontario receives \$3.19. Our rates for motor licenses are higher than those of Ontario, yet we get a per capita yield of \$2.41, and Ontario receives \$3.15. The difference in succession duties is startling. The province of Nova Scotia receives a per capita yield of \$1.10 and Ontario receives \$4.66. In miscellaneous taxes, the per capita yield of Nova Scotia is \$3.30, while that of Ontario is \$2.61.

THE CHAIRMAN: What was the year taken for this particular comparison, do you know?

HON. MR. MACDONALD: We used the 1936 returns. Professor Balcom used the 1932-33 returns, the last year which was available to him. I believe that all this shows that we are making very strenuous efforts to collect all possible revenue, more strenuous efforts than the

Province of Ontario. We are imposing high rates of taxation and in spite of this, our per capita yield is much less. We are not in as favourable position as Ontario and Quebec so far as the collection of taxes is concerned, due in a considerable measure to the proportion of population, the centralization of industry in those provinces, and other matters. We believe, furthermore, that where the taxable capacity of a province varies, as we have shown it to vary, there is produced a considerable effect upon the ability of a province to discharge its constitutional obligations under the British North America Act.

The Australian Grants Commission in its last report, that is the fourth report, says at paragraph 22, "A federation works most satisfactorily if each state has sufficient provincial provision to enable its citizens to receive the normal services from government. If the state, through financial weakness, has to conserve its services, for example, restrict the expenditure on public works or education, it grows weaker. Only if the services conform to a necessary standard will each state make its appropriate contribution to the good of the whole Commonwealth." We believe that statement to be just as applicable to Nova Scotia as to Australia.

Now, come the proposals to meet provincial need. This need is caused largely, if not wholly, by low taxable capacity of the of the province. The proposals to meet this need are, first, increased subsidies to smaller less wealthy provinces. Secondly, a new delimitation of the fields of taxation with the general object of giving the provinces greater authority to impose income taxes upon individuals. Thirdly, the assumption by the Dominion of responsibility for certain services which now fall under the constitutional

jurisdiction of the provinces.

THE CHAIRMAN: You say, "To impose income taxes." There is no doubt about the right of the provinces to impose income taxes on individuals, that is being done in other provinces. It is a direct tax on personal income.

HON. MR. MACDONALD: There is no doubt about our right to impose the tax, but the Dominion is in that field now. The Dominion has held this field of taxation for more than twenty years. It is not a satisfactory position for the provinces. If the provinces were given the exclusive right to impose income taxes, the situation might be different. I know that Ontario collects an income tax, the province collects an income tax as well as the Dominion. It is collected by a Dominion authority.

THE CHAIRMAN: Several other provinces impose income taxes.

HON. MR. MACDONALD: Oh yes, British Columbia does, and I think some of the western provinces, too.

COMMISSIONER DATOE: Saskatchewan and Manitoba.

HON. MR. MACDONALD: It is a very small amount; I think the tax collected is very small. These are the three suggestions: one the increased subsidy, two, the new delimitation of the fields of taxation. Three, the assumption by the Dominion of some services now under constitutional jurisdiction of the provinces.

THE CHAIRMAN: I thought one of your proposals was that the Dominion should have exclusive power to collect a Dominion income tax.

HON. MR. MACDONALD: These are suggestions which have been offered at various times, we do not suggest that we take the income tax. I am going to deal briefly with these three suggestions. We believe, of course, that some or all of these suggestions should be adopted so far as Nova

Scotia is concerned. It might be that a combination of two or more of them would be effective, or it might be that certain services could be given to the Dominion and certain others to the province, while at the same time, there could be a rearrangement of the subsidy. It might be that an endeavour would be made to settle the whole matter by some readjustment of the subsidy. These are suggestions which have been made. So far as we are concerned, so long as the burden is lightened, one way or the other, we are not so very much concerned with the manner of lightening it. The matters touched upon in this chapter could, of course, be elaborated at great length. The examples which have been mentioned to the Commission show, it seems to me, so far as figures can establish it, the position of Nova Scotia. The White Commission at page 12 of its report said, "The maritime provinces are handicapped by the conditions to which we have alluded, isolated economic position with respect to the rest of Canada, stationary or declining population, less per capita wealth and a taxable capacity lower than most, if not all, of the other provinces of Canada." I think that would be the view of any Commission which examined the position of Nova Scotia and the other maritime provinces.

Chapter five of our submission deals with the fiscal need of the province. When the first financial arrangements were made between the provinces and the Dominion the condition taken into account then, was the performance of provincial functions on a moderate but efficient footing. Those were the words, a "moderate but efficient footing." The question is whether that condition can be fulfilled to-day. It is interesting to look at the figures which are set out on page 112 of the submission. It is also

interesting to note some of the payments made to the states of Australia by the Commonwealth. South Australia, which has a larger area than Nova Scotia and a slightly greater population, South Australia has 559,000 people compared with Nova Scotia's 512,000 persons. The payment received by South Australia from the federal treasury was £2,600,509. This would be about \$12,654,807.00, or \$21.40 per capita. Western Australia which has a lower population than Nova Scotia received a payment of £1,753,687, a per capita rate of \$18.73. Tasmania which has a population of less than half that of Nova Scotia received a payment of £1,074,983, or a per capita rate of \$22.34.

THE CHAIRMAN: That is the unconditional grant, isn't it, Mr. Macdonald?

HON. MR. MACDONALD: It is a payment by the Commonwealth to the states, and does not include a great many other payments which are set out here, such as, relief and special bonuses as well as assistance to various industries, wheatgrowers, citrus growers, and so on.

THE CHAIRMAN: That is not in the regular subsidy; or is it? There is a fixed subsidy to each state. These are probably special grants, I think your next paragraph shows that.

HON. MR. MACDONALD: I can give you some details. The figures I have given include a contribution towards interest on state debts, a contribution towards the sinking fund on state debts, a grant for federal aid for roads, a special grant which is the largest item of the lot, grants for local public works which is a very small item, grants for maternal and infant welfare and non-recurring grants. Now take the first figure I gave you, that of South Australia; they get a special grant of £1,500,00.

THE CHAIRMAN: That would be from the Grants Commission?

HON. MR. MACDONALD: Yes, from the Grants Commission. Then, there is the contribution towards interest on the state debt £703,000, contribution towards sinking fund on the state debt, £165,000, grant for federal aid for roads, £313,000. There are some small grants, local public works, about £8000, Maternity and Infant Welfare, £6,000, non-recurring grants from excess receipts, £45,000. This makes a total of £1,237,000. You will note that about £1,500,000 or about 60 per cent of the whole grant is what is known as a special grant from the Commonwealth Grants Commission. Then, in addition, as I have said, each of these states receives a substantial grant for relief bonuses, and so on which are not included at all in the £2,346,000. As a matter of fact, South Australia received about \$4,000,000 in its grants, not including the first amount which I gave you which would include relief to wheatgrowers, bounties on cotton, flax, linseed, wine and assistance to the citrus industry, the banana industry, apple and pear research and so on. About \$4,000,000 in addition to the \$12,000,000 which they received in the manner I have indicated. This indicates a very generous scale of subsidy payments, from the Commonwealth government to the state governments.

Now, we realize, of course, that if we are to make a claim successfully on the basis of fiscal need certain things have to be demonstrated to the satisfaction of the Commission. First, I think that the Provincial administration is reasonably efficient but not extravagant. Secondly, that the functions which the province is exercising are not unduly in advance or more extensive than those of other provinces. Third, that the province is levying on its own people a fair burden of taxation.

THE CHAIRMAN: How would number one be determined, that the provincial administration is reasonably efficient but not extravagant, Mr. Macdonald? Would that not involve an examination of the accounts of the province and the forming of an opinion by the Grants Commission, and so on? I understand in one of these reports, probably the second one, dealing with Tasmania, I think it was, they put down an allowance of 200 and some thousand pounds in respect of disabilities which Tasmania suffered; they put down an equal amount to offset that in respect of mistakes or blunders by the Tasmanian Government, and it read zero at the end of the account. Then they provided for an allowance to meet the situation. One would ^{not} think that would tend to make harmony, findings of that kind. I only raise it to get your comment.

HON MR. MACDONALD: It is true, if we had a Grants Commission they would have to scrutinize the accounts of each province very carefully. I think in Australia they allow "leeway", if I may call it that of about ten per cent; they say that the cost of social service in any given state, - in the claimant state should not be less than ten per cent below the normal standard, and the severity of taxation should not be higher than ten per cent above the average.

There is no doubt that there would be some criticism, I suppose, of the action of any Commission of that sort.

It seems to me that a permanent Commission, - although in Australia I don't think the men devote their full time to it, some of them are University men', who spend about three or four months a year at the work --

COMMISSIONER DAFOE: The Chairman is a practicing lawyer in Melbourne, is he permanently employed?

HON. MR. MACDONALD: He is permanently employed?

COMMISSIONER DAFOE: Yes.

HON. MR. MACDONALD: I think two of his associates are University men, Ecclestone is the chairman, and the other two men are Giblin and Sandford. These are the two most recent appointments. Perhaps, with the exception of the Chairman and his secretary they do not devote their whole time to the work, as I understand it now, although probably in the earlier days that was necessary. But they scrutinize the accounts of each state very carefully, and come to their conclusions as to the need by taking what they call "standard deficits" and comparing the deficit of the claimant state with that standard; the standard deficit being the average of the deficits of the non-claimant states.

COMMISSIONER MacKAY: Mr. Macdonald, would an application such as these in any way lessen the provincial autonomy? Is there any objection to it on those grounds?

HON. MR. MACDONALD: I do not see any objection on that score. I think if we were to go to the Dominion and ask for money we would have to show all our books to the Dominion; they would have to come to the conclusion whether we were responsible or not, whether we were to be given money.

COMMISSIONER DAFOE: Do the claimant states make particular claims, or do they just say they are necessitous, and need assistance?

HON. MR. MACDONALD: Up to the present I think they have claimed every year, - three of the states have claimed

every year, they are the hard-hit states in Australia namely, South and Western Australia and Tasmania.

COMMISSIONER DAFOE: Do they ask for a specific amount, and then undertake to justify it by pleading?

HON. MR. MACDONALD: Yes, they ask for sums. They ask for more than they get from the Commission.

THE CHAIRMAN: They would not be human governments if they did not, I suppose.

HON. MR. MACDONALD: Well, yes, not in Australia. Reading through the reports rather hurriedly, I notice that from year to year they ask that something be treated differently from the manner in which it was treated last year. One state one year said they had calculated too much for the automobile tax of that state, or something of that sort, and another state had another claim. So I fancy it is a yearly matter and that their evidence is heard in support of their claim, and so on.

You were asking, Mr. Chairman, with regard to the claims. I find in the third report, 1936, appendix 4, applications for special grants, under section 96 of the Constitution, were made to Right Honourable the Prime Minister of the Commonwealth by South Australia, Western Australia, and Tasmania, in October 1935, and were referred to the Commission for investigation. The amounts applied for were, for South Australia £2,000,000, Western Australia £1,500,000, and Tasmania £800,000. The Commission visited the states and heard evidence in support of the applications, and so on, documents were tendered, claims were measured, and they gave South Australia £1,331,000 instead of the £2,000,000 that they asked for; they cut it down pretty substantially, more than a third. Western Australia received £456,000 instead of the £1,500,000; they were cut down to one third of their original demand. Tasmania received

£598,000 instead of £800,000 asked for, so that it was cut down by about one quarter. The next year, I see from the figures here, they made exactly the same claims for the same amounts and they were cut just about in the same proportion.

You ~~were~~ asking me, Mr. Chairman, as to determination of this matter, whether the province is extravagant. I think you asked me a question as to who would determine this matter of extravagance, - as to whether the administration was efficient but not extravagant.

THE CHAIRMAN: Yes.

HON. MR. MACDONALD: It would be determined by the Grants Commission, would it not? I might ^{just} point out that we do not fear Commissions down here. We have had so many. Three Commissions have reviewed our conditions, beginning with the Duncan Commission of 1926, followed by the Jones Commission in 1934, and the White Commission in 1935, also the Audit Board of Canada in 1930. That makes four outside bodies. All of them have found that our services were being carried on frugally and economically.

THE CHAIRMAN: Of course you appreciate, Mr. Macdonald, a Grants Commission would have to be a Dominion affair, applicable to all provinces.

HON. MR. MACDONALD: Yes, I think so. The Duncan Commission said that a review of our financial operations over a long period suggests frugal expenditure. That was in 1926. Then in 1930 the Audit Board of Canada reported that if we made expenditures on Education, health and other public welfare services to the same extent as other provinces in Canada we would have a much greater deficit than we had; which again is proof that we were carrying on carefully. The Jones Commission came in 1934, and said that our expenditures were kept within reasonable and prudent limits. The White Commission, said that our administration - they

were speaking of the three Maritime Provinces - was even economical and, as characterized by the Duncan Commission, frugal. The salaries paid the ministers of the Crown, officials and other public servants, the limited provision made for social services, are on a much lower scale than that prevailing in the other provinces.

The Australian Grants Commission before it gives financial aid to a state, considers the question of reasonable effort, that is to say it insists on some substantial effort being made by every state in order to get itself out of the difficulties in which it may be found. They go on to point out that in so far as the difficulties of the state are due to its own mistakes or extravagance in the past, the effort required of the state should be greater, but should not exceed a certain maximum. No state should be asked to reduce its standards of government below a certain point, whatever its past mistakes may have been.

Then in the third report of the Commission, paragraph 219, it dealt with this particular point and said:

"It is sometimes said rather lightly that it is always possible for any government to pay its way if it makes effort enough. This may generally be true of current expenditure, but it ignores the questions of debt."

Then it goes on to deal with the effect of debt, of the dead weight of debt on the state, and so on.

On page 117 it is pointed out that wages and salaries in a state, - and the same would be true in a province here, - have to keep within a fairly narrow limit; that many of the people within the state earning wages and salaries come under the jurisdiction of a Federal Arbitration Court, and secure an Australian wage, and that, consequently, it would be very difficult for the state to pay any lesser wage, that

the government can not pay its own employees a salary which is much below that paid in private industry.

THE CHAIRMAN: I thought most governments did, at least the higher officials.

HON. MR. MACDONALD: Yes, in some branches of the service, there is no doubt whatever about that. Government salaries are lower.

Now, take the matter of collecting revenue. We collect gasoline tax, corporation tax, motor licenses and succession duties, at a total cost of \$114,000. These are our four major items of revenue. That is an average cost of 2.53 per cent. When the Dominion endeavours to collect sales, income, and custom and excise tax, it spends 3.49 per cent. So that we are collecting our taxes at a very reasonable cost.

THE CHAIRMAN: I think it was pointed out to us in Ottawa that the cost of collection of the sales and income tax was very much below the larger figure, 3.49, but there was an extra cost in collecting the customs.

MR. STEWART: The figure for income tax was 1.5 per cent and for the excise tax, 2.71 per cent.

HON. MR. MACDONALD: Well, of course, some of these items that we collect, such as gasoline tax, requires a very considerable staff and not merely a clerical staff. Inspectors have to be out on the road checking up on gasoline stations, and that sort of thing; and motor licenses the same thing, it is necessary to support law officials to check up on the motor licenses. The corporation tax collection is largely a matter of clerical work, and succession duties, even there sometimes special assistance is necessary such as the employment of auditors. But I think it is reasonable to say that these four major items of our revenue, collected at a cost of $2\frac{1}{2}$ per cent, cannot be said to be collected at an excessively high cost. Take

the office of the Provincial Secretary the registration of securities, the executive work of the Governor in Council, the incidental correspondence of the government, the registration of companies, partnerships, collection and insurance agencies, all the work of the Department of the Provincial Secretary, including the collection of that portion of the revenue assigned to it, is carried on at a cost of 1.5 per cent. It could not possibly be much less.

THE CHAIRMAN: I think, Mr. Macdonald, so far as this Commission is concerned if it concluded that it should recommend the Grants Commission, it would be no part of its function to pass upon the expenditures of the different provinces as to whether they were reasonable or unreasonable. In other words that would involve a detailed examination on our part of the accounts, which I think, with the amount of work we have to do, might preclude us from doing it. In any event, if a Grants Commission is to be set up it would be part of its function to deal with the matter.

HON. MR. MACDONALD: Well, it depends I suppose on which of the courses your Commission would take. If you are to take the ground of fiscal need, I would think you would have to find some justification for a grant on that basis along the lines I have suggested. You will have to say "We believe that this province is doing the best it can; it is not extravagant, its services are not exceptionally in advance of the average for Canada, and it is taxing as much as it can, and yet it needs some assistance." If, on the other hand, the Commission simply recommended the formation of a Grants Commission to go into the details, then the submission we are making here may not be so necessary.

THE CHAIRMAN: I do not want to interrupt you, Mr. Macdonald, anything you think we should consider we want to hear it.

HON. MR. MACDONALD: Well, I haven't very much more to say on the point. The second condition is that our functions are not unduly extensive. I think that is a condition without which there should be no fiscal need, and I think it quite true to say our government's functions in Nova Scotia are moderate in character, not as advanced as in many provinces. Then we would have to show finally that we are imposing on our own people a reasonably heavy burden of taxation and that feature of fiscal need is dealt with on pages 121 to 127. There are one or two points in that chapter which I would like to make briefly. First of all, the union of municipalities will submit a brief to the Commission in which they will deal with the question of municipal taxation, showing the basis of their tax system, its measure and its rate. There will also be submitted to this Commission an analysis similar to that which was presented to the Jones Commission but brought up to date and submitted as an appendix to this main submission.

The question may be asked, of course, and has to be asked, I think, if a province is to expect more revenue, has it cultivated its own field of taxation with sufficient care? The Jones Commission considered that fully, and said that they were satisfied that every available means of supplementing our revenue by direct taxation had been explored, with the exception of the income tax, which would duplicate a form of taxation already adopted by the Dominion. The income tax, of course, would have been extremely valuable to the province if we were able to get the same amount that the federal government now collects from Nova Scotia, which is roughly \$1,000,000 from personal and corporation incomes. In 1917, when the Dominion entered upon that field there was a feeling among the provinces, I think, that the whole matter was merely a question of war purposes, and that after the war the taxation of incomes would revert to the

provinces, and that the Dominion would abandon that field entirely. In 1918 at a meeting in Ottawa ^{at} a Dominion-provincial conference, the provinces realized, of course, the necessities of the war, and stated that they felt the time was not suitable to press the Dominion to relinquish its collection of income tax. But they did say that the tax should be treated as a joint Dominion and provincial tax, and that 50 per cent of the tax should be given to the provinces on a per capita basis, at once; and that after the war the whole question should again be taken up and some further arrangement made. That was the suggestion in 1918 at a Dominion-provincial conference, and I think it is worth remembering that at that time the provincial representatives were willing to take the proceeds ~~of~~ this tax and distribute it among all the provinces on a per capita basis. That, I must confess, would be advantageous to a province such as Nova Scotia. A distribution of the income tax, or any similar tax, would help the poorer provinces. Yet in 1918 all provinces apparently were quite agreeable to that mode of distribution. A suggestion of the same sort has been made in more recent times with regard to another tax, and there has been some considerable opposition to that in certain provinces. I point again to the action of a conference in 1918, which took, I think, perhaps a broader view and was willing to let one half of the income tax at any rate be distributed among the provinces on a per capita basis.

In 1924 the Attorney-General of Ontario, then Mr. Price, took very much the same line and said that the proceeds on personal income should be handed to the states and those on corporations should be retained by the federal authorities. The thing that Mr. Price specified ^{was} whether they should be handed back to the states on a per capita basis or whether each state should be handed back that part of the personal

income tax which was collected within its own borders, but I assume he was inspired by the resolution of 1918 and that he meant that the personal income tax should be handed back on a per capita basis. That was, of course, opposed by Mr. Robb. The general proposition was opposed by him on the ground that the Dominion was being asked to make further expenditures and at the same time to curtail its sources of revenue. Mr. Robb assumed that the demands of the provinces at that time either for new expenditures or in drawing up sources of revenue would be one hundred millions of dollars. He admitted it was an off-hand calculation, and I think a very high calculation. I do not think that the demands of the provinces at any time would aggregate such a sum as that.

I have touched already, perhaps more than once, on the point that the Dominion government has recognized many times in the past the inadequacy of subsidies which it is giving to the provinces. You can observe that in special grants, grants for highways, agricultural education, and technical education, and so on. The making of these grants is an admission that the Dominion realized that its ordinary subsidies to the provinces were not sufficient for all provincial purposes, and so they made those special additional grants, the condition being that the provinces should make grants in some cases equal to those of the Dominion and in some cases greater, and in a few cases, less. The assumption there was, I suppose, that all the provinces were equally capable of making their contribution, an assumption which I suggest has never been strictly true in this Dominion because of the differences in taxable capacity of the various provinces.

The Jones Commission was asked by the counsel for the provinces, - or at any rate it was suggested in the province's submission,

(1) "That Nova Scotia because of its relatively low

"taxable capacity was unable to meet the demand for increased Governmental services without imposing an intolerable burden upon its surviving industries and its declining population.

(2) "That the incidence of the Canadian tariff upon the economic life of Nova Scotia had contributed materially to its low taxable capacity.

(3) "That the financial difficulties of the Provincial Government could not be met satisfactorily or equitably by a re-allocation of the fields of taxation which it shares with the Dominion."

Those were the three submissions to the Jones Commission, and the Jones Commission agreed substantially with all three; it concluded that the province had exhausted its revenue, and recommended that the Dominion government should assume responsibility for cost of Old Age Pensions and unemployment insurance, and that the Dominion should continue grants for technical and agricultural education, one of which was discontinued at that time and the other of which has been discontinued since.

The lower taxable capacity of this province has made it impossible for this government to discharge adequately its duties under the constitution, or to meet suitably the desire and the imperative need for the inauguration of new service in the social field, or for the extension of existing services. We believe that when one has regard to our wealth and income and to our natural resources, that we are making as strenuous an effort to secure needed revenue as any province in Canada; indeed, we think we are making ~~a~~ more strenuous effort than most provinces, in certain fields, as will appear a little later on.

Take the field of education, for example. The main support of that great service falls upon the local units, - the school sections. Most of the revenue available for

these units is derived from taxes on real or personal property. The decline in rural population in Nova Scotia in the last 50 years and the fact that the productive age groups in the province are getting smaller and smaller in comparison to other provinces, indicates a very serious drain on the productive powers of these local school sections. And it involves at the same time a very heavy increase in the expenditure of these small units for charitable and social services because of the unusually large percentage of the dependent age groups in the population make-up. I believe we have more people over the age of 70 in Nova Scotia, in proportion to our population than any other province in Canada, and the Maritime provinces have less people of the age, say from 20 to 45, than the rest of Canada. The result is that those who are left have a larger burden to bear in respect to charity and social services, and there are fewer of them to bear it. I do not think that the burden on real property in this province in support of schools, and in support of municipal institutions can be further increased. However, the municipalities will discuss that feature.

(Page 4353 follows)

The great sources of taxation in all the Provinces are income tax, capital and corporation taxes, succession duties, gasoline taxes and automobile licenses. These are the great sources in all Provinces. The revenue depends, of course, upon the rate of taxation applied and upon the economic conditions in the various regions.

For example, given the gasoline tax rates, the yield depends on the standard of living in the particular provinces; given the tax rate on capital or corporations, the yield depends on the size and profitability of private enterprises. Generally speaking, the rates of these taxes are fairly equal as between the Provinces, and are about as high as they can be pushed under the existent system with its manifold taxes, and its conflicts between taxing authorities. In poorer Provinces in particular, where revenues are not buoyant, further increases in rates may affect the yields. With tax rates as high as they are at present, it is clear that any failure in providing adequate revenues must be attributable almost entirely to the economic conditions in the Province concerned.

When you are considering a province's attempt to gather revenue I think you must have regard to something outside of its own tax system. As we point out here on page 125 of the brief:

The ability to gather now revenue depends on the existent tax burden in relation to the economic position, and the existent burden depends not only on a Province's own tax system, but also on the tax system of the Dominion and the other Provinces. Some provinces, because of their peculiar position, may have to bear a relatively great part of the incidence of Dominion taxes, and may even have to

bear some incidence of the taxes raised in other provinces. This shifting of incidence is undoubtedly present in the Canadian economy, with its specialized economic regions. Without pursuing this enquiry far it is clear that if the firms of one region have a large element of price leadership in the markets of another region, there will be opportunities open to them to pass part of their taxation on to those other regions. In this way, part of the Dominion and Provincial taxes of some areas can be shifted to consumers (or producers) in other areas, and the shifting is mainly from the stronger to the weaker. Accordingly, the capacity of the weaker outlying regions to expand their tax systems is limited, not only by their own economic weakness and their burden of Provincial taxes, but also to the extent that they are forced to bear part of the incidence of taxes raised by taxing authorities outside the Province itself.

There is no doubt whatever that that is the result of a centralization of industry and business, commerce, in certain parts of the country. Wealth accumulates there, fortunes are gathered there, income taxes are collected there. When the man of wealth dies succession duty taxes are collected there. To all of that wealth or to a very considerable part of it, at any rate, other parts of Canada contribute, yet other parts of Canada receive nothing in the way of a tax on that accumulated wealth. The great corporation which comes in here with its headquarters in another province and does business here is taxed of course to some extent as a corporation, maybe as a chain store to a small amount, but the wealth which is accumulated through that business, part of which comes from this province,

leaves the province and is taxable elsewhere. So that in considering the condition of a province I think regard must be had not merely to that province alone and its boundaries but to conditions in other provinces which may affect conditions in the first.

There are one or two points with regard to the Canadian tax system that I think it worth while to make. First of all the more direct the tax system the fewer the chances of shifting incidence.

THE CHAIRMAN: What page are you reading from?

HON. MR. MACDONALD: I am reading now from page 126.

We make there three points before we pass on.

THE CHAIRMAN: Thank you.

HON. MR. MACDONALD: We say the more direct the tax system the fewer the chance of shifting the incidence. There will be some, but there will be less as the tax becomes more and more direct. And that is an important matter for the outlying portions of Canada to consider.

Secondly, we point out that the Canadian tax system is handled at present by many different authorities and as such there are apt to spring up tendencies that are inimical to the best interests of citizens and of government. First of all citizens will suffer because governments may change their tax schemes without any reference to the action of another government. There is no planned and coordinated attempt on the part of our governments in this country to get some sort of an equitable and just tax system as a whole.

THE CHAIRMAN: Do you suggest a solution of that problem, Mr. Macdonald? It may come later on.

HON. MR. MACDONALD: Yes. I think that there could be by conference between the provinces a great deal done in that way. A great deal could be done in the way of agreeing upon some uniformity in such things as corporation

taxes and corporation forms, as I said yesterday. But one of the great difficulties in that regard has been that provinces have never met at regular intervals and that is why I press again the importance of this yearly conference at a fixed time. Dominion and provincial conferences have been held in the past at the call of the Dominion Government. On two occasions I think or perhaps three since Confederation the provinces themselves have gathered for a provincial conference. They have been held at irregular times for perhaps two or three days. An agenda was handed to delegates when they appeared; that was discussed, sub-committees appointed, sometimes a report brought in and the conference disbanded. In many cases the conferences were inconvenient. A conference would be called with two weeks' notice or something of that sort. Some people could not attend. I wish to see a conference meeting in Ottawa at a fixed time in every year, such as the second Tuesday in October or the third Wednesday in September, and let it be known that the conference is to meet at that time and every year, so that arrangements may be made by all governments to have their representatives there. Let there be plenty of time for discussion of problems exactly of this character, the arrival at some uniformity in a tax system in this country. When you get a regular conference sitting with a secretariat, set up, as the Attorney-General suggested yesterday, so there would be continuous work on problems of this kind, then I believe that a great many of those difficulties that have to be brought before this commission now will disappear. One of them which I think could be ironed out would be this very matter of variety of tax schemes and variety of taxes without regard in some cases to the equity of the case.

That, then, is from the point of view of the citizen, he suffers from this variety of tax schemes. And then

governments suffer because in the struggle and in the fight between governments I am afraid that sometimes some corporations and some individuals perhaps evade the taxes.

The third point with regard to the Canadian tax system is that a great deal of the difficulty in the last generation in provincial budgeting may be traced to the change in social philosophy in this century.

In most countries the change towards increased welfare and social services has moved *pari passu* with an increased dependence on direct taxation which is progressive in rate and differentiated as to the source of income. The growth of 'social' expenditure is usually coupled with the growth of progressive taxation. In Canada, however, attention has been focussed mainly on the expenditure side of this process and the tax system has not been adapted to the new expenditure requirements. Hence the budgetary difficulties:

I believe there is need for a more equitable tax system, for a more efficient tax system, and that the direction in which to move to attain that object is to concentrate more on a direct tax system for Canada as a whole. That would involve that income tax, corporation taxes and inheritance taxes should be in the hands of the Dominion Government, where they could be made national in scope and could be made progressive in character rather than regressive. Such a scheme I think would be more efficient, more productive of money and not least I think it would carry some benefits to the weaker provinces.

COMMISSIONER ANGUS: Does that mean that the income tax and the succession duty tax in your opinion should be made more progressive than they are? I suppose they are progressive at the present time.

HON. MR. MACDONALD: They are progressive, yes.

Well, I think they would stand some increase, yes, in some brackets.

We say on page 127 that if you had a more direct tax system for Canada as a whole the chances of taxes being shifted to the outlying regions would become less because progressive income tax, for example, is difficult to shift.

Another advantage would be it would remove the situation which now exists when Nova Scotia tries to tax companies that do business here but are not registered locally. It was some time after Confederation before the industry of the country began to be conducted to any large extent by limited liability corporations. In the search for means of revenue this type of corporation has been a large contributor to Provincial finance. The provinces, particularly the outlying ones, have experienced difficulty in dealing effectively with companies incorporated by the Dominion of Canada, so that they, with companies within the Provincial jurisdiction, should share alike in the taxation methods applied. The volume of business done by such companies organized by the Dominion with their central offices in Ontario and Quebec, is now very large, and many of them can not be reached for Provincial taxes."

The result is of course that the activities of these large companies have put many of the smaller local firms out of business and those smaller firms that are left have to pay a larger tax as a result. I think the powers of the Province should be enlarged so as to enable them to deal more effectively with such companies in the matter of taxation, unless the whole matter is to be handed over to the Dominion.

THE CHAIRMAN: What do you mean by that? What legislation have you in mind when you say the powers of the province should be enlarged?

HON. MR. MACDONALD: The Registrar of Joint Stock Companies is here. Would you allow him to say a word on that?

THE CHAIRMAN: Yes.

MR. ARTHUR S. BARNSTEAD, Deputy Provincial Secretary: At the moment we tax companies which have a registered agent, and we can only reach those companies who are doing business here or have a registered office, or who carry warehousing machinery and so forth. But a great many companies come into this province from outside who are represented, we will say, by travellers. It is not easy at all to reach them. They send down their travellers and they move about with easy facilities and the province is unable to reach that particular firm. The consequence is the local company, which is locally registered, or the Dominion company which has complied with the Act and can be registered, pays a larger tax than would be the case if these other companies were reached. Then there is the complaint that comes back naturally that those companies which are able to come in freely and go out, escaping taxation, are not bearing their share of the total expenditure of the government. That is our difficulty.

COMMISSIONER DAFOE: On what would you levy the tax? I mean, what part of their business do you consider taxable? The volume of business they do in the province?

MR. BARNSTEAD: We apportion in our corporation tax according to the assets of the company held as a whole, we will say, throughout Canada, and the assets as we might find them at a particular date in the Province of Nova Scotia. And then we might say what the total capital is and from that point we find out a simple sum and apportion whatever the tax would be on one-tenth or whatever it might be.

COMMISSIONER DAFOE: You have regard to a percentage of the tax?

MR. BARNSTEAD: Yes, as doing business here. We have to work out some basis like that. There is another means by which that is done, and that is by way of sales. I think Ontario is to some extent using that principle and possibly we have an alternative means whereby we would tax the sales of a company throughout its whole business and the sales of the company within the province if we felt they were escaping taxation, but that would create a difficulty with the other government.

THE CHAIRMAN: It was suggested to us in one of the briefs that the best method of dealing with company taxation and meeting the problem you have raised in your brief would be for the Dominion to tax the company and to distribute to the provinces the proportion of the tax that would be applicable to the sales made in each province.

MR. BARNSTEAD: Yes, Mr. Chairman, I noticed that submission, and so far as Dominion companies are concerned I would think that would be satisfactory to this province, that we would have no objection to that.

THE CHAIRMAN: Thank you.

HON. MR. MACDONALD: Finally, then, the centralization of taxes would have some merit with regard to inheritance taxes. We say that profits and inheritances therefor, which are built on Canadian industry as a whole are now enjoyed largely by the two central provinces. For example, in 1934 of all the succession duties collected in the nine provinces of Canada, Ontario collected 59.1%, Quebec 24.4% and the other seven provinces between them collected 16.5%. And I think the subsequent years to 1934 will show an even greater disproportion. That means that Ontario and Quebec, between them are collecting not far short of 85% of all the succession duties in Canada.

If these succession duties were part of the national tax scheme, the redistribution of this revenue to the Provinces would be on a more equitable basis, and therefore, to the advantage of the poorer Provinces.

That is the third point we raise in support of greater concentration of a direct tax system for Canada as a whole.

The final part of this submission deals with certain specific needs of the province and those pages are found from 127 to the last page, 141, of the brief. We deal there with certain services which we think require more money than we are able to supply. The first of these services is education. The part of the submission dealing with education has been prepared by the department. I shall not endeavor to read all of it. I think I can begin by referring you to page 129 of the brief where the per capita wealth of the provinces is set out. You will find again there, as I mentioned before, we are at the foot of the list in per capita wealth. Then, we take the valuation per classroom, a test sometimes used in considering educational revenue. We find again that we are at the foot of the list on an assessed valuation very much below three of the provinces, about one-third as high as the three higher provinces, about half as high as three others, and lower than in any of the other eight.

On page 130 we give a table showing the expenditure per pupil in average daily attendance. Here we are not low, we are higher than the other two Maritime Provinces. We expend per pupil in average daily attendance \$45.15 as compared to amounts running from \$54.00 to \$83.00 in the other provinces outside of the Maritimes.

Then the average annual salary of teachers in rural schools in Nova Scotia. We are about midway on the list.

Our average rural teacher receives \$536.00. Four are higher than us and four are lower.

Those four tables to which I have referred indicate this: That Nova Scotia is the lowest of all the provinces in Canada in its ability to support education, yet it is not lowest in its expenditure per pupil, nor in the average annual salary paid to teachers. It shows we are making quite a considerable effort to support education even though our resources are meagre.

THE CHAIRMAN: The expenditure per pupil includes public and secondary school?

HON. MR. MACDONALD: It includes high schools, yes, but not universities.

Take some other tests on page 131. We are spending in this province nearly 26% of all the money that is spent on education. This government is contributing 26% of the total amount spent on education. That is the third highest in Canada. It should really be called the second highest because Prince Edward Island has a peculiar municipal system, in fact I think it has no municipalities as such and consequently I do not think it should be compared to the other provinces which have a regular municipal system. We are really second.

THE CHAIRMAN: It is possible you are the highest because in British Columbia there is no municipal system over a good part of the province.

HON. MR. MACDONALD: And the whole thing is done by the province.

THE CHAIRMAN: Not the whole thing, but there is a substantial part of British Columbia in which the whole thing is done by the Province.

HON. MR. MACDONALD: Yes. Then, if we are the highest it would indicate we are paying a greater proportion of our

provincial education than any other province in Canada. Not only that, but when you consider the amounts in table 6, we are spending one eighth of the total provincial revenue on education. Now that is surprising, - only slightly below Saskatchewan and Quebec. Prince Edward Island I think for this purpose might be disregarded. That means we are doing everything within our power as a government, both in the percentage which we give to education as compared to the amount contributed by the school sections and in the percentage which we give for education as compared to our percentage spent on highways and other works. We are spending well in comparison to the other provinces.

The cost of education in this province, that is the percentage contributed by the provincial treasury, from 1925 to 1936 advanced from 18.3% to 27.2%. It may be said that, after all, the provincial treasury contributes only about one quarter of the entire amount spent on education in Nova Scotia and that the other local groups which have to make up the other three quarters may be able to do so. Our answer to that is in our opinion these local groups are now contributing up to the limit of their capacity, and that the school sections, the little country villages, the towns and the cities are not able to support in some cases even the minimum standard of education. The annual report of the superintendent for 1935 pointed out that the municipal school fund is not being provided by some of the municipalities. That is a fund of a dollar a head on every person within the municipality, - one dollar a head. That is not being contributed in full in some cases. In one case mentioned in one county the municipal fund, instead of being \$120. per teacher is down to \$95. per teacher. That indicates, I think, that in a

great many of these cases the limit has been reached so far as the tax burden on cities and towns and municipalities is concerned.

Another feature that appears from the records of the Department of Education is this: While every effort has been made to assist school sections in the province and while every effort has been made to have teachers' salaries paid up, yet in the salaries of rural teachers up to the end of the year 1936 there were arrears of \$187,000. The number of class-rooms is some 3,300. The number of rural sections in this province is 1480 of which 597 have had to be assisted in the last school year. Nearly one third of the sections in this province have had to receive some special assistance from the provincial treasury. The number has increased by almost 200 in the last two years. Indicating that those municipal bodies have as much as or more than they can do now and consequently cannot be expected to bear any more of the burden of taxation.

Let me take up another evidence of the condition of our rural schools. The number of one-room rural schools with enrolments of more than fifty pupils, - there were 112 of those schools in the last school year, - 112 schools had enrolments over fifty because they were either unable to employ an extra teacher or they were unable to supply the accommodation required. We also have some cases, unfortunately I think they are growing more numerous now, when people leave the cities and larger towns and get out on the fringes and build little shacks for themselves because they think they can live a little more cheaply there. They get out there on the fringes of the cities and towns, cannot support a school section, consequently their children, if they are to be educated at all, if they are to go to school at all, have to come into the towns, and the parents of

these children are not able to make any contribution whatever for the education of the children.

I think all these tables and facts and figures indicate that the rural sections of Nova Scotia are finding it more and more difficult to support their schools, and unfortunately the conclusions which one would derive merely from looking at those figures are borne out when the figures of the Common Examining Board of the Maritime Provinces and Newfoundland are considered. These figures will indicate, Mr. Chairman, that taking grade eleven only 25% of the candidates of the rural schools are successful in their examinations, while about 60% of the candidates from urban centres are successful. That is not because those children are dull but it is because they have not the opportunity, the schools are too crowded, there are not enough teachers available. Furthermore, of course, the rural schools can do nothing, practically speaking, in the way of instruction on such subjects as music, art and crafts, manual training or domestic science.

The salary of rural teachers as given in table 4 is \$536. a year, about \$10 a week. To raise that a little bit, to raise it to a minimum of \$600 per teacher, a sum of \$375,000 additional would be needed. That was an estimate made in the year 1931 by the Education Office and there is no reason whatever to believe that that estimate would be reduced today. Then if rural high schools were to be established and a great stimulus to rural education given thereby we would need at least \$100,000 more. If the province wish to establish the teaching of music, art, manual training and domestic science, not in every school, not a teacher for those subjects in every school, but to establish circuits over which teachers could travel teaching those subjects, if we wished to do anything

of that sort and allowed only two such teachers for each county, we estimate the cost would be \$144,000 annually. The total cost of these three very desirable extensions to general education,- that is a raise in the salaries of rural teachers, some provision for rural high schools, some provision for the teaching of such subjects as music, art and so on in the schools, - the total cost of these extensions would be about \$650,000 and this, I think, is a low estimate. There are many other items which might be added if children in our country districts were to be given the same opportunities as children in the towns.

That is all with regard to general education. I am speaking of general education in the common schools. There are certain special educational services which I think should be discussed.

THE CHAIRMAN: Mr. Macdonald, we do not want to hurry you, but with a view to deciding whether it would be necessary to sit tomorrow morning or not, how long do you think it would take you to finish your presentation?

HON. MR. MACDONALD: I have only about seven or eight pages left. I am at page 134 now and the last page of the brief is 141.

THE CHAIRMAN: If you could finish in half an hour we might sit on and that would save a morning session. Do you think you could finish in approximately half an hour?

HON. MR. MACDONALD: Oh yes.

THE CHAIRMAN: Then I think you will agree that probably the rest of the work could be done on Monday and Tuesday.

HON. MR. MACDONALD: Oh, I think so, yes.

THE CHAIRMAN: We have some matters of importance that the Commission wants to deal with and we would rather like to have tomorrow free if we can do justice to your presentation, but we do not want to shorten it.

HON. MR. MACDONALD: Half an hour will be ample.

THE CHAIRMAN: Thank you.

HON. MR. MACDONALD: With regard to special educational services the Superintendent of Education is here and if you would like to have him for a minute or two deal with that, he can deal with it, I think, more quickly than I could and more concisely. Would you like to hear him on that?

THE CHAIRMAN: Quite, yes, very glad to hear him.

DR. H.F. MUNRO, Superintendent of Education.

Mr. Chairman and members of the Commission: The Premier suggests that I discuss, very briefly, special education. He has already taken up, I understand, general education, that is education which applies to all children to bring them up through the common schools grades into the high school. As you recall, special attention was given by the Dominion Government to technical education and agricultural education for the last twenty or thirty years. I think it was about 1915 that the Dominion Government passed the Act giving special agricultural grants to the provinces for a term of ten years to cover the teaching of agriculture. Under that grant Nova Scotia made certain developments, particularly in what was called rural education. It created a rural education department and brought competent instruction in agriculture and related education to the rural schools and, the grant expired in ten years. That Act was passed in 1913, the grant expired in ten years, under which Nova Scotia received on an average \$82,000. With that, as I say, we did found a very efficient rural agricultural department which we still carry on although that grant has been discontinued. However, we do not spend \$82,000, but we are trying to put as much money as we can into that work.

THE CHAIRMAN: How much are you spending at the

present time approximately, Doctor Munro?

DR. MUNRO: We were spending \$25,000 but that has been reduced. We had to reduce it to about \$13,000. I think. No, it was less than that. In the year ending 1936 we spent \$12,905. on our particular part of rural education. Of course there is an agricultural college at Truro which was receiving support also from the agricultural grant at the time. I do not know how much they spend. The Department of Agriculture could inform you on that. Of course we have lost that and we are hard put to it now to find the twelve, fifteen, or twenty-thousand dollars that we have been spending on rural education.

(Page 4076 follows)

In 1921, the Dominion government provided a grant of \$1,000,000 for ten years to the province, and we got our share of that. We used it largely for the development of technical extension classes, technical classes for the adults in the mining districts. In 1931, the grant expired and although the Dominion government has reenacted the grant, the Act was held in suspense and has not yet been brought into operation. The result is that we are spending \$50,000 a year on that kind of work, and when the grant expired we had to find an additional \$50,000 out of provincial revenue. I might add that this was just about the sum we had in mind to use in the development of rural highschools. I think, with \$50,000, if it were capitalized, we could establish about seventy rural highschools in this province. If these highschools were established, we could not only bring the academic subjects to the country, but we could also have specialists teach agricultural subjects, in so far as it is possible for highschool pupils to carry on that type of work. We have had to find \$50,000 out of our own revenue for the development of this work when we were relying upon the Dominion grants.

HON. MR. MACDONALD: The second item of fiscal need to which I would like to refer is Public Health. I need not stress, before this Commission, the importance of public health or the great burden which falls on this service to-day. I might say, in this province in addition to the regular duties which fall upon the Health Department, such as sanitation, hygiene and child welfare, our public health department has been entrusted with the administration of two special measures, old age pensions, and mothers' allowances. Some question was asked earlier in the discussion concerning the payments for mothers' allowance and I would like to point out that we are not quite as

generous as other provinces in this regard. We are not as generous either in the amount or in the kind of case which comes within the scope of the Act. The maximum amount payable to any widow in Nova Scotia, no matter how many children she has, is \$60.00. In most of the other provinces, the maximum amount is greater than \$60.00. Then, as to the type of case which comes within the scope of our Act; we require in this province that a widow have two children under the age of sixteen before she becomes eligible for any payment. In some provinces the benefits of mothers' allowances are given to widows with one child, and in still other provinces, the benefits of the Act are afforded to women whose husbands are insane, incurably ill, or suffer from certain other named disabilities. Many other provinces adopt a more generous attitude than we are able to adopt because they have more ample revenues.

THE CHAIRMAN: Does the means test apply?

HON. MR. MACDONALD: To mothers?

THE CHAIRMAN: Yes.

HON. MR. MACDONALD: Oh yes, At the top of page 138, in our Brief, you will find a table of comparison for old age pensioners in every province of Canada. British Columbia pays its old age pensioners \$19.20 a month. Nova Scotia pays \$14.03, Prince Edward Island, \$10.63, New Brunswick \$13.50. Prince Edward Island has a maximum of \$15.00 instead of the maximum of \$20.00 which applies in other provinces. This might account to some extent for their lower monthly rate.

COMMISSIONER DAFOE: The Premier of Saskatchewan said that they had fixed a maximum of \$15.00 for Saskatchewan, but probably that is a recent decision which did not get into these statistics.

HON. MR. MACDONALD: It must be very recent.

THE CHAIRMAN: Mr. Macdonald, am I correct in assuming the amount of the payment is fixed by the province and the Dominion contributes 75 per cent of any amount fixed, is that the basis?

HON. MR. MACDONALD: The Dominion contributes 75 per cent of the total expenditure each quarter; I think that is when they make their payments to us. We inform them how much we have spent on old age pensions, not including administrative costs which we have to pay entirely, and they send us their payment. The maximum agreed on is \$20.00 per month. We also believe that the Department of Public Health should have more money for the development of public health units in different sections of the provinces, more extensive services in the field of maternal and child welfare, social hygiene, and more generous provision in relation to other matters of social welfare which, in this province, are administered by that department. We estimate that to bring the Department of Health and its services into proper alignment, we would need some \$650,000. yearly to be provided, over and above the present expenditures of that department. This estimate which I have given, does not take into consideration another matter which might properly be considered under Public Health, that is the matter of slum clearance and housing. We are willing to join in any venture of that sort which the federal government and municipal authorities might undertake. We hope some provision can be made for this important and necessary social measure. We have already set aside some \$200,000 as a contribution towards a housing scheme, but due to some difficulties of a local or municipal nature the scheme has not yet been embarked upon in this

province.

I pass on now to the question of agriculture. There has already been an examination made of the withdrawal of grants which the federal government made to the provinces. The local Department of Agriculture is extending its services in several directions with a view to securing greater interest in agriculture among our people and with a view to inducing more Nova Scotians to adopt agriculture as a life vocation. In these times, Mr. Chairman, I can think of no more important work for a government to be engaged in than trying to induce the people to go back to the adoption of mixed farming which can be carried on so well in this province. We are endeavouring to stimulate the activity, and we have already stimulated the activities of the Department of Agriculture. We wish to carry this work still further in the hope of inducing, as I say, more of our young people to go back to the farm. We feel that the agricultural college at Truro should extend its work by providing summer courses for students, for teachers who would teach in the rural highschools. The provincial normal college which is also located in Truro would cooperate with the Department of Agriculture. We would hope that as a result of efforts along these lines, we would have a higher type of leadership in rural communities than we have had in the past. There are several other activities of the department such as dairy herd improvement, the improvement of livestock, and the very important work of agricultural extension, all of these things should have better provision made for them. These new activities of the Department of Agriculture would involve an expenditure, we think, of \$100,000 over and above the present expenditure.

The next question is that of Fisheries. I might say in regard to fisheries, we considered at great length whether

we would ask the federal government to hand over control of the fisheries to this province. We realized that there were many problems to be solved, such as the problem of treaties with other countries, problems relating to international waters, and law which would make control of the fisheries by the province difficult. However, we do feel, that the province should appoint a director of fisheries or supervisor of fisheries, give him whatever title that may be desired, who would go up and down this province giving attention to the problems of marketing, the problem of educating the fishermen along lines in their own industry, the problem of transportation and freight rates. This last mentioned item is one of extreme importance when you are dealing with so perishable a commodity as fish. This director of fisheries would deal generally with all other matters affecting the general welfare of this important industry. It is a regrettable thing that the value of the fisheries of Nova Scotia is very little greater than it was fifty years ago. In spite of improved methods in catching fish and faster boats, the value of our fish is just what it was about fifty years ago. We believe the federal government must enlarge the activities of their staff in fisheries research and experimentation. We believe the federal supervisor of fisheries in the Maritime provinces should have more control than he has now. We have done what we can although fisheries is not one of our immediate charges. We have made loans to the fishermen and paid them bonuses, as we realize that the fishing industry is one of the basic industries, and indeed I think, the most typical of all Nova Scotian industries.

THE CHAIRMAN: What is the value of your total catch?

HON. MR. MACDONALD: The landed value this year would be approximately \$10,000,000, I should think. This would

not be the market value, but is what we call the landed value. We are satisfied that we should have a supervisor of fisheries paying attention to those matters which I have mentioned. He would need some clerical assistance, travelling expenses, and so on. We believe that the sum of \$50,000 should be set aside for the establishment of this office of Director of Fisheries.

I will touch upon the sinking fund very briefly. I simply say that the gross debenture debt at the end of the fiscal year was \$95,219,246.00. The amount paid into the sinking fund for the last fiscal year was \$579,171.00. This is less than one-half of one per cent which we are contributing and is entirely inadequate for the retirement of our debt.

THE CHAIRMAN: What was your current income this year, Mr. Macdonald, and your expenditure?

HON. MR. MACDONALD: About \$10,000,000, a little over \$10,000,000.

THE CHAIRMAN: And the expenditure approximately the same?

HON. MR. MACDONALD: A little lower.

THE CHAIRMAN: Good.

HON. MR. MACDONALD: I do not think I need to labour the point about the sinking fund. It is obvious that we did what all provinces did during the depression days, we failed to set aside any sum for the sinking fund. So long as we were having deficits, we could not do it. This practice cannot continue; we must start to set aside a sinking fund. One half of one per cent or one per cent is not at all adequate for a sinking fund when you have bond issues for ten, fifteen, or twenty years. These are considered long term issues to-day. If you set aside one per cent for an issue of that sort, you are setting

aside and entirely inadequate sum, that is considering it from a sound actuarial point of view.

Passing on, we consider the question of general administration. I draw attention first of all to the salaries paid to members of the local legislature, which now stands at \$1,000 per year. This scale has remained in Nova Scotia, unchanged, since 1913, twenty-five years ago. It is one of the lowest scales in Canada, and it is much too low, I think, in view of all the work which a member of the local legislature is called upon to do. In my estimation, it should be increased by at least fifty per cent.

THE CHAIRMAN: You would not be defeated in the House upon that issue.

HON. MR. MACDONALD: No, and I do not think in the country, because it is a reasonable contention. Ministers of the Crown, on the whole, are paid lower salaries than the average of the Canadian provinces. The salaries were fixed at this level fifteen years ago and should now be increased.

THE CHAIRMAN: Are all of the ministers paid the same salaries except the Premier?

HON. MR. MACDONALD: Yes, the same salary. Another indication of our poverty is the fact that we have six ministers with portfolios in Nova Scotia and only three of them have deputies. The three which have no deputies are the Minister of Highways, Minister of Agriculture, and Minister of Health. I suggest that such a condition as this is unfair to the ministers themselves and to the people of the province. There is urgent need for a deputy minister because of the large amount of work which falls upon a minister under present conditions. If a minister undertakes all this work there is a serious threat to his

health. There is the routine work of the department, the work which devolves upon him as a representative of the constituency and his general work as a minister of the Crown. For him to attempt to combine all these matters is inviting serious injurious injury to his own health and the danger that the work of the department will suffer.

THE CHAIRMAN: Have these offices been vacant for long?

HON. MR. MACDONALD: Two of them have been vacant for four years, the other has been vacant for about seven or eight years. The present ministers of Agriculture and Health have not had deputies since 1923, and the last deputy minister of Highways was sometime in 1928 or 1929. Deputies should be appointed in these departments. The province now has a Superannuation Act which makes provision for a fund to which provincial employees and the government contribute in equal parts. This Act has never been brought into proper operation because of the condition of provincial finances. I believe the provincial government should immediately make the proper contribution to that fund, and ask for a similar contribution from the employees. This would be assurance to the employees that they would be provided for in their old age. The province of Nova Scotia has passed a Civil Service Act. My hope has been that the Civil Service Act would raise the whole standard of the Civil Service throughout the province. I do not mean to say that there has been any lack of loyalty or devotion on the part of our Civil Servants. It is estimated that the items just referred to would involve an additional expenditure of at least \$100,000. This closes the formal part of the submission by the province of Nova Scotia, Mr. Chairman.

THE CHAIRMAN: This brief might be marked as Exhibit

No. 140.

EXHIBIT NO. 140: Submission by the Government of the Province of Nova Scotia.

THE CHAIRMAN: Then you said you would put in the Report of the Duncan Commission.

MR. STEWART: I think the Appendices to this Brief should be filed as Exhibit No. 141.

THE CHAIRMAN: Yes.

EXHIBIT NO. 141: Appendices to the Brief of the Government of the Province of Nova Scotia.

THE CHAIRMAN: Then we will take the report of these different commissions in chronological order. The Report of the Duncan Commission will be Exhibit number 142, and the Report of the Jones Commission, Exhibit number 143.

EXHIBIT NO. 142: Report of the Duncan Commission.

Exhibit No. 143: Report of the Jones Commission.

HON. MR. MACDONALD: We desired to put in the submissions of this province to the Jones Commission.

THE CHAIRMAN: You desire to put in Mr. McLeod Rogers' Report.

HON. MR. MACDONALD: It is contained in these submissions to the Jones Commission.

THE CHAIRMAN: That will be Exhibit Number 144.

EXHIBIT NO. 144: Submission of the province of Nova Scotia to the Jones Commission.

THE CHAIRMAN: Have you extra copies of that Brief for the Commission?

HON. MR. MACDONALD: Yes, we have, they are with the secretariat.

THE CHAIRMAN: Then the Report of the White Commission

will be Exhibit Number 145:

The Report of the White
Commission.

THE CHAIRMAN: There may be some few questions which the members of the Commission would like to ask you on this last section of your Brief, but we will reserve that for Monday. However, before we adjourn, I would like to ask you to consider one question, and give us the benefit of your views upon it. It has been suggested to us, from various sources, I must say the first suggestion came from the Maritime provinces, that the problem of the finances of the Maritime and the prairie provinces could greatly be relieved by the union of the maritime provinces and the union of the three prairie provinces. We would like to have you give us the benefit of your view upon this matter. What saving in expenditure do you think might be brought about by such a union and, regardless of the question of the a saving in expenditure, do you think it is a practicable proposal?

(The Commission adjourned at 5.00 p.m.,
until 10.30 a.m., Monday, February 7, 1938.)

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